

MONTANA LEGISLATIVE HISTORY

Chapter 309 1999

Bill H _____ S 94

Original bill & history ☒ c

H. Committee on Transportation

Hearing Date(s) 3/03 _____ c

3/22 _____ c

_____ c

_____ c

Date Out 3-22 _____ c

S. Committee on Highway & Transport

Hearing Date(s) 1/14 _____ c

1/21 _____ c

_____ c

_____ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

1/04 Fiscal Note Requested
 1/13 Fiscal Note Received
 1/14 Fiscal Note Printed
 2/10 Hearing
 3/24 Tabled in Committee
 3/31 Missed Deadline for Revenue Bill Transmittal

SB 93 Introduced by Hargrove

LC0206 Drafter: Fox

Revise the Laws Relating to Subsidized Adoptions;...

By Request of Department of Public Health and Human Services

12/21	Introduced		
1/04	1st Reading		
1/04	Referred to Public Health, Welfare and Safety		
1/11	Hearing		
1/14	Committee Executive Action--Bill Passed	11	0
1/14	Committee Report--Bill Passed		
1/16	2nd Reading Passed	47	0
1/18	3rd Reading Passed	49	0
	Transmitted to House		
1/19	Referred to Human Services		
1/27	Hearing		
2/03	Committee Executive Action--Bill Concurred	17	0
2/03	Committee Report--Bill Concurred		
2/04	2nd Reading Concurred	91	9
2/05	3rd Reading Concurred	92	8
	Returned to Senate		
2/05	Sent to Enrolling		
2/06	Returned from Enrolling		
2/08	Signed by President		
2/09	Signed by Speaker		
2/09	Transmitted to Governor		
2/17	Signed by Governor		
2/18	Chapter Number Assigned		
	Chapter Number 21		
	Effective Date: 10/01/1999 - All Sections		

SB 94 Introduced by Nelson

LC0405 Drafter: Kurtz

Generally Revise the Laws Governing the Licensing of Noncommercial and Commercial Drivers;...

By Request of Department of Justice

12/21	Introduced		
1/04	1st Reading		
1/04	Referred to Highways and Transportation		
1/04	Fiscal Note Requested		
1/08	Fiscal Note Received		
1/08	Fiscal Note Signed		
1/09	Fiscal Note Printed		
1/14	Hearing		
1/22	Committee Executive Action--Bill Passed as Amended	11	0
1/22	Committee Report--Bill Passed as Amended		

SENATE BILLS AND RESOLUTIONS

75

1/25	2nd Reading Passed	47	2
1/26	3rd Reading Passed	45	4
	Transmitted to House		
2/16	Referred to Transportation		
3/03	Hearing		
3/23	Committee Executive Action--Bill Concurred as Amended	12	5
3/23	Committee Report--Bill Concurred as Amended		
3/30	2nd Reading Concurred	90	8
3/31	3rd Reading Concurred	91	9
	Returned to Senate with Amendments		
4/07	2nd Reading House Amendments Concurred	49	0
4/08	3rd Reading Passed as Amended by House	50	0
4/08	Sent to Enrolling		
4/10	Returned from Enrolling		
4/12	Signed by President		
4/13	Signed by Speaker		
4/13	Transmitted to Governor		
4/15	Signed by Governor		
4/16	Chapter Number Assigned		
	Chapter Number 309		
	Effective Date: 4/15/1999 - Sections 11 and 13		
	Effective Date: 10/01/1999 - Sections 1-10, 12 and 14-25		

SB 95 Introduced by Grosfield, et al. LC0478 Drafter: Vandenbosch

Authorize Counties to Voluntarily Appropriate and Transfer Funds to Municipalities to Supplement the Cost of Infrastructure Development and Maintenance;...

By Request of Environmental Quality Council

12/21	Introduced		
1/04	1st Reading		
1/04	Referred to Local Government		
1/12	Hearing		
1/21	Committee Executive Action--Bill Passed	11	0
1/21	Committee Report--Bill Passed		
1/22	2nd Reading Passed	50	0
1/23	3rd Reading Passed	46	0
	Transmitted to House		
2/16	Referred to Local Government		
3/02	Hearing		
3/03	Committee Executive Action--Bill Concurred	13	0
3/04	Committee Report--Bill Concurred		
3/08	2nd Reading Concurred	85	14
3/09	3rd Reading Concurred	89	10
	Returned to Senate		
3/10	Sent to Enrolling		
3/10	Returned from Enrolling		
3/12	Signed by President		
3/13	Signed by Speaker		
3/15	Transmitted to Governor		
3/16	Signed by Governor		

SENATE BILL NO. 94

INTRODUCED BY NELSON L

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING THE LICENSING OF NONCOMMERCIAL AND COMMERCIAL DRIVERS; AUTHORIZING THE ISSUANCE OF A MEDICAL ASSESSMENT AND REHABILITATION DRIVING PERMIT; DEFINING "DRIVER REHABILITATION SPECIALIST"; CLARIFYING RESIDENCY REQUIREMENTS FOR LICENSURE AND EXTENDING FROM 90 DAYS TO 120 DAYS THE NONCOMMERCIAL RESIDENCE REQUIREMENT; MAKING INELIGIBLE FOR LICENSURE A PERSON WHO LACKS CERTAIN FUNCTIONAL ABILITIES; REQUIRING A DRIVER'S LICENSE APPLICANT TO DISCLOSE ANY PHYSICAL OR MENTAL CONDITION THAT MAY IMPAIR THE APPLICANT'S DRIVING ABILITIES; REQUIRING DISCLOSURE OF ANY ADAPTIVE EQUIPMENT OR OPERATIONAL RESTRICTIONS THAT ASSIST AN APPLICANT IN SAFELY OPERATING A MOTOR VEHICLE; DEFINING "JURISDICTION"; REQUIRING AN APPLICANT SURRENDERING A VALID LICENSE FROM ANOTHER JURISDICTION OR RENEWING A MONTANA DRIVER'S LICENSE TO SUBMIT TO KNOWLEDGE AND SKILLS TESTS IN CERTAIN SITUATIONS; ALLOWING A PERSON TO RETAIN A LICENSE FROM ANOTHER JURISDICTION FOR IDENTIFICATION PURPOSES; REQUIRING DRIVER'S LICENSES TO CONTAIN A PERSON'S FULL LEGAL NAME; CLARIFYING LAWS GOVERNING LICENSE RENEWAL BY MAIL; REQUIRING THE DEPARTMENT TO ADOPT RULES GOVERNING ISSUANCE OF COMMERCIAL DRIVER'S LICENSES, DRIVER'S LICENSE EXAMINATIONS AND REEXAMINATIONS, THE STANDARDS CONCERNING A DRIVER'S FUNCTIONAL ABILITIES AND SKILLS, VISUAL ACUITY REQUIREMENTS, AND OTHER LICENSING RESTRICTIONS; ALLOWING A PEACE OFFICER TO SEIZE A SUSPENDED LICENSE DURING AN INVESTIGATIVE STOP OR ARREST; REQUIRING A PERSON TO SUBMIT PROOF OF COMPLIANCE WITH 61-6-301 IN CERTAIN INSTANCES; CLARIFYING WHEN A PERSON IS CONSIDERED TO HAVE COMMITTED A SECOND, THIRD, OR SUBSEQUENT OFFENSE OF DRIVING WITH AN ALCOHOL CONCENTRATION OF 0.10 OR MORE; DEFINING "MOVING VIOLATION" FOR PURPOSES OF HABITUAL TRAFFIC OFFENDER PROVISIONS; ALLOWING THE DEPARTMENT OF JUSTICE TO USE CERTIFIED REPRODUCTIONS OF DRIVING RECORDS CONTAINED IN COMPUTER STORAGE DEVICES; AMENDING SECTIONS 61-5-102, 61-5-103, 61-5-105, 61-5-106, 61-5-107, 61-5-108, 61-5-110, 61-5-111, 61-5-112, 61-5-113, 61-5-125, 61-5-207, 61-5-208, 61-6-112,

61-6-122, 61-6-123, 61-6-125, 61-11-203, AND 61-11-204, MCA; REPEALING SECTION 61-6-141, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. (1) For the purposes of [section 2], "driver rehabilitation specialist" means a person who:

(a) possesses current certification from the association of driver educators for the disabled as a driver rehabilitation specialist; or

(b) (i) provides comprehensive services in the clinical evaluation of the abilities of a person with a disability to safely operate a motor vehicle, utilizing, among other things, wheelchair and seating assessment, vehicle modification prescription, and driver education;

(ii) (A) possesses a bachelor's degree in rehabilitation, education, or health and safety; in physical, occupational, or recreational therapy; or in a related profession; or

(B) has an equivalent of 8 years of experience in driver rehabilitation and education; and

(iii) has at least 1 year of experience in the area of driver evaluation and training for individuals with disabilities.

(2) For the purposes of this chapter, "jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico or a province or territory of Canada.

NEW SECTION. Section 2. Medical assessment and rehabilitation driving permit. (1) Upon the written request of a licensed physician on a form prescribed by the department, the department may authorize a driver rehabilitation specialist to issue a temporary medical assessment and rehabilitation driving permit to a person who is not licensed to drive or whose license has expired under the provisions of this chapter for the purpose of driver assessment, rehabilitation, and training.

(2) The temporary permit may be issued only to a person who is 16 years of age or older.

(3) The permit is valid for up to 6 weeks, beginning with the date of the first evaluation of the permitholder by the driver rehabilitation specialist. The driver rehabilitation specialist shall sign and date the permit at the time of the first evaluation.

1 (4) The permit is valid only when the permitholder is operating a motor vehicle u
2 immediate supervision of the driver rehabilitation specialist during the permitholder's participat
3 actual in-vehicle evaluation process.

4 (5) The department may extend the duration of a medical assessment and rehabilitatic
5 for an additional 6-week period if the driver rehabilitation specialist or the licensed physician cert
6 the permitholder needs additional time to complete the driver assessment, rehabilitation, and
7 process.

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9 Section 3. Section 61-5-102, MCA, is amended to read:

10 "61-5-102. Drivers to be licensed. (1) ~~No person, except those expressly exempt~~
11 ~~61-5-104, shall~~ Except as provided in 61-5-104, a person may not drive any a motor vehicle
12 highway in this state unless such the person has a valid Montana driver's license. No perso
13 person may not receive a Montana driver's license unless and until he the person surrende
14 department all valid driver's licenses in his possession issued to him by any other jurisdic
15 surrendered licenses shall be returned by the department to the issuing department toget
16 information that the licensee is now licensed in this state. No person shall be permitted to A pe
17 not have in the person's possession or under the person's control more than one valid Montan
18 license at any time.

19 (2) (a) A license is not valid for the operation of a motorcycle or quadricycle unless t
20 of the license has completed the requirements of 61-5-110 and the license has been clearly ma
21 the words "motorcycle endorsement". A motorcycle endorsement is required for the oper
22 quadricycle.

23 (b) A license is not valid for the operation of a commercial vehicle unless the holder of t
24 has completed the requirements of 61-5-110 and the license has been clearly marked with t
25 "commercial driver's license".

26 {2}(3) ~~Whenever~~ When a city or town requires a licensed driver to obtain a local drivin
27 or permit, ~~such~~ a license or permit ~~shall~~ may not be issued unless the applicant presents a stat
28 license valid under the provisions of this chapter.

29 {3}(4) A person operating a bicycle defined in 61-1-123(2) ~~shall have in his~~ must h
30 person's possession at all times when operating the bicycle a valid Montana driver's license."

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Section 4. Section 61-5-103, MCA, is amended to read:

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"61-5-103. Residency requirement. (1) ~~Any~~ A person who has resided in Montana for more than ~~90~~ 120 consecutive days is considered to be a resident for the purpose of being licensed to operate a motor vehicle and must ~~thereafter~~ be licensed under the laws of Montana before operating a motor vehicle.

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(2) A person who operates a commercial motor vehicle in Montana is considered to be a resident of Montana for the purpose of being licensed to operate a commercial motor vehicle if ~~he~~ the person resided in Montana for more than 30 consecutive days and must ~~thereafter~~ be licensed under the laws of Montana before operating any commercial motor vehicle."

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Section 5. Section 61-5-105, MCA, is amended to read:

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"61-5-105. Who may not be licensed. The department may not issue a license under this chapter to a person:

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(1) who is under 16 years of age unless:

(a) the person is at least 15 years of age and has passed a driver's education course approved by the department and the superintendent of public instruction; or

(b) the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license;

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(2) whose license or driving privilege is currently suspended or revoked in this or any state;

(3) who is addicted to the use of alcohol or narcotic drugs;

(4) who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to competency by the method provided by law;

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(5) who is required by this chapter to take an examination;

(6) who has not deposited proof of financial responsibility when required under the provisions of chapter 6 of this title; or

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(7) who has any condition characterized by lapse of consciousness or control, either temporary or prolonged, that is or may become chronic. However, the department may in its discretion issue a license to an otherwise qualified person suffering from a condition if the afflicted person's attendance

1 physician attests in writing that the person's condition has stabilized and would not be likely to
2 with that person's ability to operate a motor vehicle safely and, if a commercial driver's
3 involved, the person is physically qualified to operate a commercial motor vehicle under applica
4 or federal regulations; or

5 (8) who lacks the functional ability, due to a physical or mental disability or limitation,
6 operate a motor vehicle on the highway."

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8 Section 6. Section 61-5-106, MCA, is amended to read:

9 "61-5-106. Instruction permits -- traffic education learner licenses and permits --
10 licenses. (1) The department may issue an instruction permit to a person satisfying the age req
11 specified in 61-5-105(1) after the applicant has successfully passed the knowledge test and
12 examination as provided in 61-5-110. An instruction permit entitles the permittee, while in i
13 possession of the permit and accompanied by a licensed driver seated beside the permittee,
14 motor vehicle upon the public highways for a period of 6 months from the date the fees r
15 61-5-111 are paid.

16 (2) The department may issue a traffic education learner license to any person who is
17 1/2 years of age and who has successfully completed or is successfully participating in a traffic
18 course approved by the department and the superintendent of public instruction. A traffic
19 learner license entitles the licensee to operate a motor vehicle only when accompanied by an
20 instructor or licensed parent or guardian and may be restricted to specific times or areas.

21 (3) (a) An instructor of a traffic education program approved by the department
22 superintendent of public instruction may issue a traffic education permit that is effective for a
23 or more restricted period to an applicant who is enrolled in a traffic education program appro
24 department and who meets the age requirements specified in 20-7-503.

25 (b) When in immediate possession of the traffic education permit, the permittee may
26 a designated highway or within a designated area:

27 (i) a motor vehicle when an approved instructor is seated beside the permittee; or
28 (ii) a motorcycle or quadricycle when under the immediate and proximate superv
29 approved instructor.

30 (4) The department may in its discretion issue a temporary driver's permit to an app

1 driver's license permitting the applicant to operate a motor vehicle while the department is comple
2 its investigation and determination of all facts relative to the applicant's right to receive a driver's lice
3 The temporary driver's permit must be in the permittee's immediate possession while operating a m
4 vehicle, and it is invalid when the applicant's license has been issued or for good cause has been refu

5 (5) The department may in its discretion issue a temporary commercial driver's license to
6 applicant permitting the applicant to operate a commercial motor vehicle while the departmen
7 completing its investigation and determination of all facts relative to the applicant's right to recei
8 commercial driver's license. The temporary license must be in the applicant's immediate possession v
9 operating a commercial motor vehicle and is invalid when the applicant's license has been issued o
10 good cause has been refused.

11 (6) The department may in its discretion issue a temporary medical assessment and rehabilita
12 driving permit as provided in [section 2]."

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14 Section 7. Section 61-5-107, MCA, is amended to read:

15 "61-5-107. (Bracketed language terminates on occurrence of contingency or July 1, 11
16 Application for license, instruction permit, or motorcycle endorsement. (1) Each application for
17 instruction permit, driver's license, or motorcycle endorsement must be made upon a form furnishe
18 the department. ~~A motorcycle endorsement is required for the operation of a quadricycle.~~ Each applica
19 must be accompanied by the proper fee, and payment of the fee entitles the applicant to not more
20 three attempts to pass the examination within a period of 6 months from the date of application. A v
21 registration form for mail registration as prescribed by the secretary of state must be attached to
22 driver's license application. If the applicant wishes to register to vote, the department shall accept
23 registration and forward the form to the election administrator.

24 (2) Each application must ~~state~~ include the full legal name, date of birth, sex, residence add
25 of the applicant[, and if the application is for a commercial ~~vehicle operator's~~ driver's license, s
26 security number], must ~~briefly describe~~ include a brief description of the applicant, and must s
27 whether include a statement that allows the department to determine if:

28 (a) the applicant has previously been licensed as a driver or commercial vehicle operator, ar
29 so, when and by what state or country;

30 (b) any commercial ~~operator~~ driver's license has ever been suspended or revoked; or

1 (c) an application has ever been ~~refused~~ denied, and, if so, the date of and reason for sus
2 revocation, or ~~refusal~~ denial;

3 (d) the applicant has a physical or mental disability, limitation, or condition that impair
4 impair the applicant's ability to exercise ordinary and reasonable control in the safe operation o
5 vehicle on the highway; and

6 (e) the applicant relies upon, or intends to rely upon, any adaptive equipment or op
7 restrictions to attain the ability to exercise ordinary and reasonable control in the safe opera
8 motor vehicle on the highway, including the nature of the equipment or restrictions.

9 [(3) The department shall keep the applicant's social security number from thi
10 confidential, except that the number may be used for purposes of subtitle VI of Title 49 of the
11 as otherwise permitted by state law administered by the department and may be provide
12 department of public health and human services for use in administering Title IV-D of the Socia
13 Act.]

14 (4) When application is received from an applicant previously licensed by another jurisd
15 department shall request a copy of the applicant's driving record from the previous licensing ju
16 The driving record may be transmitted manually or by electronic medium. When received, th
17 records become a part of the driver's record in this state with the same force and effect a
18 entered on the driver's record in this state in the original instance. (Bracketed language term
19 occurrence of contingency or July 1, 1999--sec. 104, Ch. 552, L. 1997.)"

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21 Section 8. Section 61-5-108, MCA, is amended to read:

22 "61-5-108. Application of minors -- imputed liability. (1) The application of ~~any a~~ pers
23 under ~~the age of~~ 18 years of age for an instruction permit, ~~or driver's license, or medical assess~~
24 rehabilitation driving permit shall must be signed and verified before a person authorized to
25 oaths or an employee of the department by a parent of the applicant or, if none is available
26 other responsible adult who is willing to assume the obligation imposed under this chapter upon
27 signing the application of a minor.

28 (2) Any negligence or willful misconduct of a minor who is under the age of 18 years of
29 driving a motor vehicle upon a highway ~~shall~~ must be imputed to a person who has signed the
30 of the minor for ~~a~~ an instruction permit, or driver's license, which person shall be or m

1 rehabilitation driving permit. The person who signs the application is jointly and severally liable with
2 minor for any damages caused by the negligence or willful misconduct unless a motor vehicle liab
3 policy, as provided for in chapter 6 of this title, covering the minor is in effect, in which case there is
4 imputed liability as described in this section."

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6 Section 9. Section 61-5-110, MCA, is amended to read:

7 "61-5-110. (Temporary) Examination of applicants -- cooperative driver testing programs. (1)

8 department shall examine each applicant for a driver's license or motorcycle endorsement, excep
9 otherwise provided in this section. The examination must include a test of the applicant's eyesigh
10 knowledge test examining the applicant's ability to read and understand highway signs and the applica
11 knowledge of the traffic laws of this state, and, except as provided in 61-5-118, a road test or a s
12 test demonstrating the applicant's ability to exercise ordinary and reasonable control in the safe opera
13 of a motor vehicle, quadricycle, or motorcycle. ~~The examination for the commercial driver's license~~
14 ~~include additional items. The knowledge test and the road test or the skills test must be waived fo~~
15 ~~applicant who works in a farm-related service industry and who otherwise meets the requirements f~~
16 ~~seasonal commercial driver's license as set forth in this title and rules adopted by the department.~~
17 knowledge test or road test, or both, may be waived by the department upon certification of
18 applicant's successful completion of the test by a certified cooperative driver testing program, as provi
19 in subsection (2).

20 (2) The department is authorized to certify as a cooperative driver testing program
21 state-approved high school traffic education course offered by or in cooperation with a school district
22 employs an approved instructor who has current endorsement from the superintendent of pu
23 instruction as a teacher of traffic education and who agrees to:

24 (a) administer standardized knowledge and road tests required by the department to stud
25 participating in the district's high school traffic education courses;

26 (b) certify the test results to the department; and

27 (c) comply with regulations of the department and the superintendent of public instruction.

28 (3) (a) Except as otherwise provided by law, a resident who has a valid driver's license iss
29 by another state jurisdiction may surrender that license for a Montana license of the same class, t
30 and endorsement upon payment of the required fees; and successful completion of a vision examin

1 ~~and, if requested by the examiner, completion of either the knowledge test or road test, or~~
2 addition, a resident surrendering a commercial driver's license issued by another ~~state~~ jurisdic
3 successfully complete any examination required by federal regulations before being issued a co
4 driver's license by the department.

5 (b) The department may require an applicant who surrenders a valid driver's license
6 another jurisdiction to submit to a knowledge and skills test if:

7 (i) the applicant has a physical or mental disability, limitation, or condition that impair
8 impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation o
9 vehicle on the highway; and

10 (ii) the surrendered license does not include readily discernible adaptive equipment or o
11 restrictions appropriate to the applicant's functional abilities; or

12 (iii) the applicant wants to remove or modify a restriction imposed on the surrendere

13 (c) When a license from another jurisdiction is surrendered, the department shall notify
14 agency from the other jurisdiction that the applicant has surrendered the license. If the applic
15 to retain the license from another jurisdiction for identification or other nondriving purp
16 department shall place a distinctive mark on the license, indicating that the license may b
17 nondriving purposes only, and return the marked license to the applicant. (Terminates Sept
18 1999--sec. 12, Ch. 53, L. 1995.)

19 **61-5-110. (Effective October 1, 1999) Examination of applicants -- cooperative dri**
20 **programs. (1) The department shall examine each applicant for a driver's license or**
21 **endorsement, except as otherwise provided in this section. The examination must include a**
22 **applicant's eyesight, a knowledge test examining the applicant's ability to read and understa**
23 **signs and the applicant's knowledge of the traffic laws of this state, and a road test or**
24 **demonstrating the applicant's ability to exercise ordinary and reasonable control in the safe o**
25 **a motor vehicle, quadricycle, or motorcycle. ~~The examination for the commercial driver's l~~**
26 **~~include additional items. The knowledge test and the road test or the skills test must be w~~**
27 **~~applicant who works in a farm-related service industry and who otherwise meets the require~~**
28 **~~seasonal commercial driver's license as set forth in this title and rules adopted by the depa~~**
29 **knowledge test or road test, or both, may be waived by the department upon certific**
30 **applicant's successful completion of the test by a certified cooperative driver testing program,**

1 in subsection (2).

2 (2) The department is authorized to certify as a cooperative driver testing program
3 state-approved high school traffic education course offered by or in cooperation with a school district
4 employs an approved instructor who has current endorsement from the superintendent of pu
5 instruction as a teacher of traffic education and who agrees to:

6 (a) administer standardized knowledge and road tests required by the department to stud
7 participating in the district's high school traffic education courses;

8 (b) certify the test results to the department; and

9 (c) comply with regulations of the department and the superintendent of public instruction.

10 (3) (a) Except as otherwise provided by law, a resident who has a valid driver's license iss
11 by another ~~state~~ jurisdiction may surrender that license for a Montana license of the same class, t
12 and endorsement upon payment of the required fees; and successful completion of a vision examin
13 ~~and, if requested by the examiner, completion of either the knowledge test or road test, or both~~
14 addition, a resident surrendering a commercial driver's license issued by another ~~state~~ jurisdiction s
15 successfully complete any examination required by federal regulations before being issued a commer
16 driver's license by the department.

17 (b) The department may require an applicant who surrenders a valid driver's license issued
18 another jurisdiction to submit to a knowledge and skills test if:

19 (i) the applicant has a physical or mental disability, limitation, or condition that impairs, or
20 impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a m
21 vehicle on the highway; and

22 (ii) the surrendered license does not include readily discernible adaptive equipment or operati
23 restrictions appropriate to the applicant's functional abilities; or

24 (iii) the applicant wants to remove or modify a restriction imposed on the surrendered licer

25 (c) When a license from another jurisdiction is surrendered, the department shall notify the iss
26 agency from the other jurisdiction that the applicant has surrendered the license. If the applicant w
27 to retain the license from another jurisdiction for identification or other nondriving purposes,
28 department shall place a distinctive mark on the license, indicating that the license may be use
29 nondriving purposes only, and return the marked license to the applicant."

30

Section 10. Section 61-5-111, MCA, is amended to read:

"61-5-111. Renewals Contents of a driver's license, renewal, renewal by mail, license expiration, grace period, and fees for licenses, permits, and endorsements -- notice of expiration. (1) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's licenses and shall make necessary rules governing sales. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may, in its discretion, appoint an agent to sell receipts.

(2) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain a full-face photograph of the licensee in the size and form prescribed by the department; a distinguishing number issued to the licensee; the full legal name, date of birth, Montana mailing address, and a brief description of the licensee; either the licensee's customary signature or a digital reproduction of the licensee's customary signature. A license is not valid until it is signed by the licensee.

~~(2)-(a)~~ (3) (a) When a person applies for renewal of a driver's license, the department shall administer the applicant's eyesight, and, in the department's discretion, may have the applicant complete a road test demonstrating the applicant's ability to operate and to exercise ordinary and reasonable care in the operation of a motor vehicle to submit to a knowledge and skill test if:

(i) the renewal applicant has a physical or mental disability, limitation, or condition that in the department's discretion, may impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department may also require the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if an application is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in

1 at a Montana driver's examination station.

2 (d) (i) A person may renew a driver's license by mail if the person certifies that the person
3 temporarily out of state and will not be returning to the state prior to the expiration of the license.

4 (ii) An applicant who renews a driver's license by mail shall submit to the department an appropriate
5 vision examination and a medical evaluation from a licensed physician in addition to the fees required for
6 renewal.

7 (iii) If the department does not have a digitized photograph or signature record of the renewing
8 applicant from the expiring license, then the department may require the renewal applicant to submit a
9 personal photograph and signature that meets the requirements prescribed by the department.

10 (iv) The term of a license renewed by mail is 4 years, and a person may not renew by mail more than once
11 consecutive license terms.

12 ~~(d)~~(e) The department shall mail a driver's license renewal notice no earlier than 60 days and
13 later than 30 days prior to the expiration date of a commercial driver's license if the licensee
14 previously submitted a written request for the notice, either at the time of initial application or of renewal
15 of the license.

16 ~~(3)~~~~(a)~~ (4) (a) Except as provided in subsections ~~(3)(b)~~ (4)(b) and ~~(3)(c)~~ (4)(c), a license expires on the
17 the anniversary of the licensee's birthday 8 years or less after the date of issue or on the licensee's 7
18 birthday, whichever occurs first. The department may adopt rules to stagger the implementation of
19 conversion to an 8-year license cycle over a 4-year period.

20 (b) A license issued to a person who is 75 years of age or older expires on the anniversary of
21 licensee's birthday 4 years or less after the date of issue.

22 (c) A license issued to a person who is under 21 years of age expires on the licensee's 21
23 birthday.

24 ~~(4)~~(5) Whenever the department issues an original license to a person under the age of 18 years, the
25 the license must be designated and clearly marked as a "provisional license". Any license designated
26 marked as provisional may be suspended by the department for a period of not more than 12 months
27 when its records disclose that the licensee, subsequent to the issuance of the license, has been guilty of
28 careless or negligent driving.

29 ~~(5) It is unlawful for any person to have in the person's possession or under the person's control more than one~~
30 ~~more than one valid Montana driver's license at any one time. A license is not valid for the operation of a motor vehicle~~

~~a motorcycle or quadricycle unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words "motorcycle endorsement". A license is required for the operation of a commercial vehicle unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words "commercial driver's license".~~

(6) Fees for driver's licenses are:

(a) driver's license, except a commercial driver's license -- \$4 per a year or fraction of

(b) motorcycle endorsement -- 50 cents per a year or fraction of a year;

(c) commercial driver's license:

(i) interstate -- \$5 per a year or fraction of a year;

(ii) intrastate -- \$3.50 per a year or fraction of a year.

~~(7) The holder of a valid chauffeur's license may convert or renew the chauffeur's license to a commercial driver's license by paying the appropriate fee and complying with the requirements established by the department.~~

(7) Upon receipt of notice from another jurisdiction that a person licensed under this chapter has surrendered a Montana driver's license to that jurisdiction, the department shall change the license classification on the person's official driver record to "surrendered" and cancel the person's Montana driver's license.

Section 11. Section 61-5-112, MCA, is amended to read:

"61-5-112. Classification of Types and classes of commercial driver's license license classification -- rulemaking. The department upon issuing a commercial driver's license shall indicate the license the class of license issued and shall appropriately examine each applicant according to the class applied for and may impose rules for classification, examination, and use shall adopt rules that the department considers necessary for the safety and welfare of the traveling public governing the classification of commercial driver's licenses and related endorsements and the examination of commercial driver's license applicants and renewal applicants. The rules must:

(1) subject to the exceptions provided in this section, comport with the requirements of part 383, and the medical qualifications of 49 CFR, part 391;

(2) allow for the issuance of a type 2 (intrastate only) commercial driver's license in accordance with medical qualification and visual acuity standards prescribed by the department;

(3) allow for the issuance of a type 2 commercial driver's license to a person who is 18

1 age or older or an operationally restricted type 2 commercial driver's license to a person who is 16 year
2 of age or older;

3 (4) allow for issuance of a seasonal commercial driver's license based on standards establishe
4 by the department for the waiver of the knowledge and skills test for a qualified person employed i
5 farm-related service industries who has a good driving record and sufficient prior driving experience;

6 (5) prescribe the operational and seasonal restrictions for a seasonal commercial driver's license
7 and

8 (6) prescribe the requirements for the medical statement that must be submitted in order for
9 person to be qualified for a type 2 commercial driver's license."

10
11 Section 12. Section 61-5-113, MCA, is amended to read:

12 "61-5-113. Restricted licenses. (1) ~~The department upon issuing a driver's license shall have~~
13 ~~authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with~~
14 ~~respect to the type of or special mechanical control devices required on a motor vehicle which the~~
15 ~~licensee may operate or such other restrictions applicable to the licensee as the department may~~
16 ~~determine to be appropriate to assure the safe operation of a motor vehicle by the licensee~~ If, upon an
17 applicant's completion of the vision, knowledge, and skills tests required under 61-5-110, 61-5-111, and
18 61-5-207, the department determines that an applicant's ability to exercise ordinary and reasonable
19 control in the safe operation of a motor vehicle on the highway depends on the use of adaptive equipmen
20 or operational restrictions, then the department shall include the appropriate restrictions on a license
21 issued to the applicant. Once imposed, the restrictions may not be removed unless the departmen
22 determines that the adaptive equipment or operational restrictions are no longer essential to the licensee's
23 ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway

24 (2) The department may either issue a special restricted license or may ~~set forth such~~ include the
25 restrictions upon on the usual license form.

26 (3) The department may upon receiving satisfactory evidence of ~~any a~~ a violation of the restriction:
27 ~~of such a~~ license or endorsement suspend or revoke the same but the license. The licensee shall be i
28 entitled to a hearing as upon suspension or revocation under this chapter.

29 (4) It is a misdemeanor for ~~any a~~ a person to operate a motor vehicle in ~~any a~~ a manner in violation
30 of the restrictions imposed in a restricted license issued to him."

Section 13. Section 61-5-125, MCA, is amended to read:

"61-5-125. Authority of department -- rulemaking authority. (1) The department shall administer and enforce the provisions of this chapter ~~and may adopt rules to implement this chapter.~~

(2) The department shall adopt rules setting standards to govern driver's license examination and reexaminations. The rules:

(a) must specifically address the functional abilities and skills required for a person to exercise ordinary and reasonable control in the safe operation of a motor vehicle on a highway;

(b) must include minimum uncorrected or corrected visual acuity requirements for unrestricted and restricted licensure and may include minimum field of vision and depth perception requirements and hearing requirements for unrestricted and restricted licensure;

(c) may direct the design of one or more types of skills tests to assess an applicant's or licensee's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway.

A skills test may consist of:

(i) a comprehensive assessment of a person's functional abilities by means of an examination or demonstration of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

(ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the department, as related to a specific physical or mental condition or conditions or a requirement for reexamination;

(d) must include operational restrictions based upon the visual acuity of an applicant or licensee;

(e) may take into consideration any nationally recognized standards or recommended procedures for assessment of a person's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway;

(f) must include appropriate licensing criteria relating to the use of adaptive equipment and operational limits that can be readily discerned by law enforcement or a licensing agency in this jurisdiction;

(g) may be derived from medical guidelines and information compiled by driver licensing advisory or review boards from other jurisdictions, as well as information received from advocacy groups for persons with disabilities and senior citizens; and

1 (h) except as provided in 61-5-105, may not use a person's age or physical or mental disability
2 limitation, or condition as a justification for denial of a license.

3 (3) The department may adopt additional rules governing:

4 (a) acceptable methods of proof of identification that must be supplied by a person upon
5 application for or renewal of a driver's license;

6 (b) issuance of a hardship license to an underage applicant;

7 (c) the cancellation of a driver's license upon receipt of an insufficient funds check in payment
8 of license fees;

9 (d) circumstances under which the department may issue a probationary license to a person
10 whose license has been suspended or revoked or a person whose license is subject to a discretionary
11 suspension or revocation;

12 (e) restrictions to be imposed upon a probationary license;

13 (f) renewal of a driver's license by a person in the military assigned to active duty who had a valid
14 Montana driver's license at the time of entering active duty; and

15 (g) issuance of a duplicate driver's license."

17 Section 14. Section 61-5-207, MCA, is amended to read:

18 "61-5-207. Reexamination or investigation ~~medical evaluation~~ -- when required. The (1) If the
19 department, having good cause to believe that a licensed driver is incompetent or otherwise not qualified
20 to be licensed, may, based on information received, investigate the licensee's record, physical or mental
21 condition, or need for a license or, receives reliable evidence that a licensed driver lacks the ability to
22 exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway, the
23 department may, upon written notice of at least 5 days to the licensee, require the licensee to submit to
24 an examination obtain a medical evaluation from a licensed physician or submit to one or more tests
25 customarily conducted by the department for licensure under 61-5-110.

26 (2) Upon the review of a medical evaluation, the conclusion of the investigation or examination
27 testing, or both, the department shall take action as may be appropriate considering the facts reported
28 or discovered and may suspend or revoke the driver's license of the person or permit the person to retain
29 the license or may issue a license subject to restrictions as permitted under 61-5-113 may:

30 (a) impose restrictions on the license, as provided in 61-5-113, that are appropriate to the

1 licensee's acknowledged or demonstrated functional abilities;

2 (b) suspend the license indefinitely based upon a licensee's inability to exercise ordinary
3 reasonable control in the safe operation of a motor vehicle on the highway; or

4 (c) take no action modifying the license or placing restrictions on the licensee.

5 (3) The age of a licensee, by itself, does not constitute evidence of a condition requiring
6 reexamination or a medical evaluation by a licensed physician.

7 (4) A suspension under this section continues in effect until evidence satisfactory to the
8 department establishes that the licensee has regained the ability to exercise ordinary and reasonable
9 control in the safe operation of a motor vehicle on a highway.

10 (5) Refusal or neglect of the licensee to obtain a medical evaluation from a licensed physician
11 to submit to the investigation or examination testing as required by the department is grounds for suspension
12 or revocation of the person's license."

13
14 **Section 15. Section 61-5-208, MCA, is amended to read:**

15 **"61-5-208. Period of suspension or revocation. (1) The department may not suspend or**
16 **a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than**
17 **1 year, except as otherwise permitted by law.**

18 **(2) (a) A person whose license or privilege to drive a motor vehicle on the public highways**
19 **has been suspended or revoked may not have the license, endorsement, or privilege renewed or replaced**
20 **unless the revocation was for a cause which that has been removed. After the expiration of the**
21 **period of the revocation or suspension, the person may make application for a new license or endorsement**
22 **provided by law, but the department may not issue a new license or endorsement unless and until**
23 **satisfied, after investigation of the driving ability of the person and upon a showing by its records of**
24 **sufficient evidence, that the person is eligible to be licensed to drive in Montana.**

25 **(b) When ~~any~~ a person is convicted or forfeits bail or collateral not vacated for the offense of**
26 **operating or being in actual physical control of a motor vehicle while under the influence of alcohol,**
27 **drug or a combination of alcohol or drugs or for the offense of operation of a motor vehicle by a person**
28 **with alcohol concentration of 0.10 or more, the department shall, upon receiving a report of conviction or**
29 **forfeiture of bail or collateral not vacated, suspend the driver's license or driving privilege of the person**
30 **for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral**

1 second, third, or subsequent offense within 5 years of the first offense, the department shall revoke
2 license or driving privilege of the person for a period of 1 year, except that if the 1-year period passes
3 the person has not completed an alcohol information course, treatment, or both, as ordered by
4 sentencing court, the license revocation remains in effect until the course, treatment, or both
5 completed.

6 (c) For the purposes of subsection (2)(b), a person is considered to have committed a sec
7 third, or subsequent offense if fewer than 5 years have passed between the date of an offense
8 resulted in a prior conviction and the date of the offense that resulted in the most recent convictio

9 (3) (a) If a person pays the reinstatement fee required in 61-2-107 and provides the departm
10 proof of compliance with any ignition interlock restriction imposed under 61-8-442, the department
11 stay the license suspension or revocation of a person who has been convicted of a violation of 61-8-
12 or 61-8-406 and return the person's driver's license. The stay must remain in effect until the perio
13 suspension or revocation has expired and any required alcohol information course, treatment, or b
14 have been completed.

15 (b) If the department receives notice from a court, peace officer, or ignition interlock vendor
16 the person has violated the ignition interlock restriction by, including but not limited to, operating a m
17 vehicle not equipped with the device, tampering with the device, or removing the device before the pe
18 of restriction has expired, the department shall lift the stay and reinstate the license suspensio
19 revocation for the remainder of the time period. The department may not issue a probationary driv
20 license to a person whose license suspension or revocation has been reinstated due to violation o
21 ignition interlock restriction.

22 (4) The period for all revocations made mandatory by 61-5-205 is 1 year except as provide
23 subsection (2).

24 (5) The period of revocation for any person convicted of any offense which makes mandatory
25 revocation of the driver's license commences from date of conviction or forfeiture of bail.

26 (6) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a comme
27 motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-811
28 subsection (2) of this section."
29

30 Section 16. Section 61-6-112, MCA, is amended to read:

1 "61-6-112. Surrender of license. Any A person whose license ~~shall have~~ has been susper
2 ~~herein provided, or~~ whose policy of insurance or bond, when required under this part, ~~shall have~~ h
3 canceled or terminated, or who ~~shall neglect~~ neglects to furnish other proof upon request
4 department shall immediately return ~~his~~ the person's license to the department. If ~~any person's~~
5 a licensee fails to return to the department the license as provided herein, the department shall fo
6 direct any required by this section, then a peace officer or highway patrol officer to secure pos
7 thereof may seize the license during an investigative stop or arrest and to return the same licensi
8 department."

9
10 Section 17. Section 61-6-122, MCA, is amended to read:

11 "61-6-122. Suspension for nonpayment of judgments -- exceptions. (1) The departmen
12 the receipt of a certified copy of a judgment, shall ~~forthwith~~ suspend the license and any nonre:
13 operating privilege of any person against whom ~~such a~~ judgment was rendered, except as her
14 otherwise provided in this section and in 61-6-125.

15 (2) If the judgment creditor consents in writing, in ~~such a form as that~~ the departme
16 ~~prescribe prescribes~~, that the judgment debtor be allowed a license or a nonresident's operating p
17 ~~the same may be allowed by the department may~~, in its discretion, allow the debtor a lic
18 nonresident's operating privilege for 6 months from the date of such consent, and thereafter The
19 license or nonresident's operating privilege continues until such the judgment creditor's consent is
20 in writing notwithstanding default in the payment of ~~such the~~ judgment, or of any installments
21 prescribed in 61-6-125, provided the judgment debtor furnishes proof of ~~financial responsibility con~~
22 with 61-6-301."

23
24 Section 18. Section 61-6-123, MCA, is amended to read:

25 "61-6-123. Suspension to continue until judgments paid and proof given -- maximum p
26 suspension. ~~Such A~~ license ~~and or~~ nonresident's operating privilege ~~shall remain so~~ remains su
27 and ~~shall may~~ not be renewed, nor ~~shall any such may a~~ license be thereafter issued in the name
28 person a judgement debtor, including ~~any such person a judgment debtor~~ not previously licenser
29 and until ~~every such each~~ judgment is stayed, satisfied in full, or satisfied to the extent he
30 provided in this part, and until the person gives proof of ~~financial responsibility compliance with 6~~

1 subject to the exemptions ~~stated~~ provided in 61-6-122 and 61-6-125 or 6 years have passed from
2 judgment was first entered as provided in 25-9-301 and the person has complied with 61-6-30
3 61-6-302."

4
5 Section 19. Section 61-6-125, MCA, is amended to read:

6 "61-6-125. Installment payment of judgments -- default. (1) A judgment debtor upon due
7 to the judgment creditor may apply to the court in which ~~such the~~ judgment was rendered for the pri
8 of paying ~~such the~~ judgment in installments, ~~and the~~ The court, in its discretion and without prejud
9 any other legal remedies ~~which that~~ the judgment creditor may have, may ~~so~~ order payme
10 installments and fix the amounts and times of ~~payment of the installments~~ the payments.

11 (2) The department ~~shall~~ may not suspend a license or a nonresident's operating privileg
12 shall restore any license or nonresident's operating privilege suspended following nonpayment
13 judgment, when the judgment debtor gives proof of ~~financial responsibility~~ compliance with 61-6-30
14 obtains ~~such~~ an order permitting the payment of ~~such the~~ judgment in installments, and whil
15 payment of any ~~said~~ installment is not in default.

16 (3) ~~In the event if~~ the judgment debtor fails to pay any installment as specified by ~~such a~~
17 order, then ~~upon notice of such default~~, the department shall, upon notice of the default, ~~for~~
18 suspend the license or nonresident's operating privilege of the judgment debtor until ~~such the~~ judg
19 is satisfied, as provided in this part."

20
21 Section 20. Section 61-11-203, MCA, is amended to read:

22 "61-11-203. Definitions. As used in this part, the following definitions apply:

23 (1) "Conviction" means a finding of guilt by duly constituted judicial authority, a plea of g
24 or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged
25 having committed any offense relating to the use or operation of a motor vehicle which is prohibite
26 law, ordinance, or administrative order.

27 (2) "Habitual traffic offender" means any person who within a 3-year period accumulates :
28 more conviction points according to the schedule specified in this subsection:

29 (a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;

30 (b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor veh

or negligent vehicular assault, 12 points;

(c) any offense punishable as a felony under the motor vehicle laws of Montana or any the commission of which a motor vehicle is used, 12 points;

(d) driving while under the influence of intoxicating liquor or narcotics or drugs of ar operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, 10 point

(e) operating a motor vehicle while the license to do so has been suspended or revoked,

(f) failure of the driver of a motor vehicle involved in an accident resulting in death o any person to stop at the scene of the accident and give the required information and assis defined in 61-7-105, 8 points;

(g) willful failure of the driver involved in an accident resulting in property damage of \$2 at the scene of the accident and give the required information or failure to otherwise report ar in violation of the law, 4 points;

(h) reckless driving, 5 points;

(i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;

(j) any of the mandatory motor vehicle liability protection offenses under 61-6-301 and 5 points;

(k) operating a motor vehicle without a license to do so, 2 points (this subsection (k apply to operating a motor vehicle within a period of 180 days from the date the license exp

(l) speeding, 3 points;

(m) all other moving violations, 2 points.

(3) There may not be multiple application of cumulative points when two or more charg involving a single occurrence. If there are two or more convictions involving a single occurren number of points for the specific conviction carrying the highest points is chargeable a defendant.

(4) "License" means any type of license or permit to operate a motor vehicle.

(5) "Moving violation" means a violation of a state law or local ordinance regulating th of a motor vehicle on a highway or way of the state open to the public."

Section 21. Section 61-11-204, MCA, is amended to read:

"61-11-204. Department's duties. (1) If the records maintained by the department

1 person's driving record brings the person within the definition of a habitual traffic offender,
2 department shall:

3 (a) declare the person a habitual traffic offender;

4 (b) revoke the person's driver's license or driving privileges as provided in 61-11-211; and

5 (c) notify the person in writing of the declaration and revocation.

6 (2) The notice must be sent by first-class mail to the most current address on record with
7 department. The notice must include a certified ~~copy~~ reproduction of the person's driving record
8 ~~copies of all relevant abstracts of convictions and bond forfeitures~~ as contained in the computer stor
9 device used by the department for recordkeeping. The notice must inform the person of the right under
10 61-11-210 to appeal the declaration and revocation. Service of the notice is complete upon mailing

11
12 NEW SECTION. Section 22. Repealer. Section 61-6-141, MCA, is repealed.

13
14 NEW SECTION. Section 23. Codification instruction. [Sections 1 and 2] are intended to
15 codified as an integral part of Title 61, chapter 5, and the provisions of Title 61, chapter 5, apply
16 [sections 1 and 2].

17
18 NEW SECTION. Section 24. Effective dates. (1) [Sections 11 and 13] are effective on passage
19 and approval.

20 (2) [Sections 1 through 10, 12, and 14 through 22] are effective October 1, 1999.

21
22 NEW SECTION. Section 25. Applicability. [This act] applies to license applications, renewals, and
23 reexaminations submitted after September 30, 1999.

24 - END -

FISCAL NOTE

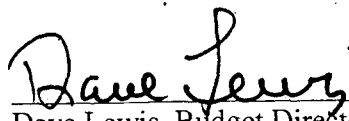
Bill #: SB0094

Title: Revise driver's licensing laws

Primary Sponsor: Linda Nelson

Status: As introduced

 1-8-99
Sponsor signature Date

 1-7-99
Dave Lewis, Budget Director Date

Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:		
General Fund	\$37,460	\$315
Revenue:	\$0	\$0
Net Impact on General Fund Balance:	(\$37,460)	(\$315)

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact		X	Technical Concerns
X		Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. Development of the functional and medical standards to be included in the rule making process will require consultation with a physician and/or rehab specialist at an estimated cost of \$5,000, a one-time expense in FY 2000.
2. Rule making procedures will require the publication of the proposed rules at an estimated cost of \$1,050 in FY 2000. (15 pages x 2 publications x \$35/page = \$1,050).
3. It will be necessary to contract for programming services with an outside vendor since programming staff is committed to complying with Y2K needs. The total programming cost of \$30,845 in FY 2000 is necessary to accomplish the changes in the nine computer programs affected. (Programming cost is estimated at 336 hours at \$75/hour or \$25,200 plus \$5,645 in increased computer processing charges for time and testing.)

SB 94

4. Additional operating costs are estimated at \$565 in FY 2000 and \$315 in FY 2001 for printing and for services of a medical expert to train division staff.

FISCAL IMPACT:

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
FTE		
<u>Expenditures:</u>		
Operating Expenses	\$37,460	\$315
<u>Funding:</u>		
General Fund (01)	\$37,460	\$315
<u>Revenues:</u>	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>		
General Fund (01)	(\$37,460)	(\$315)

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **CHAIRMAN ARNIE MOHL**, on January 14, 1999 at
3:00 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. John Hertel (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Glenn Roush (D)
Sen. Debbie Shea (D)
Sen. Spook Stang (D)
Sen. Daryl Toews (R)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Phoebe Olson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 78 SB 94 SB 122, 1/12/1999
Executive Action: SB 57 SB 47 SB 122

vehicle a reasonable distance within that reduced speed limit to comply with that reduced speed limit.

SENATOR COLE, asked if the lower speed limit signs were moved back, would that solve the problem?

Col. Reap, said that they did receive complaints that there was only one sign and he didn't believe that moving the signs back would be consistent with the Department of Transportation's data.

Closing by Sponsor:

SENATOR STANG, said that the problem was the people weren't seeing the signs until too late. He hoped that this would alleviate some problems. He believed that spending \$260,000 on safety was not a big price to pay. He was willing to work on reducing the cost if they could. He turned in copies of letters he had received. **EXHIBIT(1)**

HEARING ON SB 94

Sponsor:

SENATOR LINDA NELSON SD, 49, Medicine Lake

Proponents:

Brenda Nordlund, Department of Justice

Opponents: NONE

Opening Statement by Sponsor:

SENATOR LINDA NELSON SD, 49, Medicine Lake , said she was carrying the bill for the Department of Justice. She stated the bill was explained in the title, and the primary purpose of SB 94 was to ensure that those persons to whom the Department of Justice issued drivers licenses, had the ability to safely operate a vehicle on the highway. She explained that an update of present law was required in the light of the increasing complexity of the licensing assessment and evaluation process. She went on that additionally **SB 94** revised the Departments rule

making authority in respect to both commercial and noncommercial drivers licenses. She continued that the present law rule making authority was over broad and may not withstand judicial scrutiny. Finally **SB 94** included a variety of administrative amendments that simplified record keeping responsibilities and resolved some ongoing issues with which the Motor Vehicle Division has been struggling.

Proponents' Testimony:

Brenda Nordlund, Department of Justice, handed in written testimony. **EXHIBIT(2)**

{Tape : 1; Side : B; Approx. Time Counter : 345; Comments : The tape was turned over during Brenda Nordlunds' testimony. }

Opponents' Testimony: NONE

Questions from Committee Members and Responses:

SENATOR ARNIE MOHL, said he believed they were talking about strictly disabled people until he read through section 2 and he saw that temporary licenses were being changed from 15 years of age to 16 years of age. He wondered why.

Brenda Nordlund, replied it did not change the requirement for licensure at all with respect to 15 year old drivers who have graduated from traffic education programs. In fact what this did was say that they would only give a medical or rehabilitation permit to a person who was over 16 years of age.

SENATOR DARYL TOWES, asked why they eliminated the requirement that the Highway Patrol confiscate the drivers license.

Brenda Nordlund, stated that current law required the Highway Patrol to send an officer to obtain a suspended license from a person who had failed to turn it in to the Department of Justice. She said realistically that had not been done in years. She said that the work load did not allow time for this and it was not a priority since they had immediate access through dispatch to the Motor Vehicle drivers licensing system to determine the status of the drivers license.

SENATOR RIC HOLDEN, wanted to make sure there was no language in the bill that required a motor vehicle test be taken every time a license was due for renewal.

Brenda Nordlund, said there was no language to do that. She referred to page 11, lines 14 through 25.

SENATOR HOLDEN, asked for clarification on the words "knowledge-test".

Brenda Nordlund, said she was referring to the written test that applicants were given when they first received a license.

Brenda Nordlund, submitted an amendment to the bill, **EXHIBIT(3)** that allowed a Montanans drivers license to be marked inactive.

SENATOR GLENN ROUSH, wondered if this bill addressed old age drivers.

Brenda Nordlund, referred to page 16, lines 1 and 2. It stated that the rules may not use a persons age, or physical or mental disability limitation or condition as a justification for denial of a license.

SENATOR HOLDEN, asked why on page 9, lines 25 through 28, "farm related service industries" was lined out.

Brenda Nordlund, replied all restrictions and requirements for seasonal commercial drivers licenses were contained in the rules, so she took it out of the statute and put it into the rule making authority.

SENATOR HOLDEN, wondered what the practice was in the case of a 15 year old farm boy driving a beet truck or grain truck.

Anita Drews Opadahl, Bureau Chief, said that in Montana they were exempt if they stayed in Montana and met the 4 conditions of a farmer.

SENATOR HOLDEN, asked if the language on page 14, lines 3 though 5, would continue that same practice.

Anita Drews Opadahl, replied she believed it would.

Brenda Nordlund, said that the farm vehicle exemption was part of the statutory definition of commercial motor vehicle that is contained early in Title 61 and was not a part of this bill.

SENATOR JERGESON, wondered if mental disability alone could not be used to disqualify a person, or if the driver examiner would have to perform the drivers test before they could determine that the person should not have a drivers license.

Brenda Nordlund, said that in the interview part of the renewal application process, if a medical condition was disclosed they could require a doctor to submit information on a persons status.

SENATOR BARRY "SPOOK" STANG, wondered if it would be possible to determine the cost of requiring people to retake the test but not to pass it.

Dean Roberts, Department of Justice, said there would be nothing wrong with doing that and they could look at it.

Closing by Sponsor:

SENATOR NELSON, left the bill in the committee's capable hands and hoped they would help her with it when it went to the Floor.

HEARING ON SB 122

Sponsor:

SENATOR TOM BECK, SD 28, Deerlodge

Proponents:

Brenda Nordlund, Department of Justice

Opponents: None

Opening Statement by Sponsor:

SENATOR TOM BECK, SD 28, Deerlodge, said that this bill was a repealer to make permanent a third party commercial drivers testing program. He said the program had a sunset date on it for

DEPARTMENT OF JUSTICE
SB 94: Revision of Driver Licensing Laws

Background

In recent years, the Department has responded to several discrimination complaints filed with the Montana Human Rights Commission. In each instance, an individual with a disability complained that he or she was subjected to additional scrutiny in the license application process because of the disability.

- Two complaints involved applicants who surrendered a valid license from another state and objected to being required to perform a road or skills test prior to licensure in Montana.
- Another involved an individual with a disability who objected to being retested prior to having previously imposed operational restrictions lifted.
- A fourth complaint came from a student with a disability who objected to being tested by the Department as part of the regular oversight process of the Cooperative Driver Testing Program (CDTP) for participating traffic education programs.

The Department is also facing the prospect of a possible discrimination claim being filed with the U.S. Department of Justice under the Americans with Disabilities Act of 1990.

Common to each of these situations is the lack of clarity in present law regarding the Department's authority to require testing in various circumstances and to set evaluation standards based on the functional skills and abilities required for a person to exercise ordinary and reasonable control in safely operating a motor vehicle on the highway.

The amendments sought in SB 94 are intended to correct this situation.

Evaluation of Driving Skills

The primary purpose of this Senate Bill 94 is to ensure that the people to whom the Department of Justice issues a driver's license have the functional ability to safely operate a motor vehicle on the highway. In order to do that, Montana laws governing the licensing of drivers need to be updated in recognition of the increasing complexity of the licensing assessment and evaluation process and the ever-more present reality that individual dissatisfaction with the licensing process may result in litigation.

SB 94 would provide the Department:

- clear authority to deny licensure to a person who lacks the functional ability, due to a physical or mental disability or condition, to safely operate a motor vehicle on the highway;
- the ability to ask applicants whether they have a physical or mental disability that impairs or may impair their ability to exercise ordinary and reasonable control in safely operating a motor vehicle, and whether they rely upon, or intend to rely upon, adaptive equipment or operational restrictions to drive safely.
- the ability to adopt rules setting standards to govern driver's license examinations and reexaminations that specifically address the functional abilities and skills required for a person to exercise ordinary and reasonable control in safely operating a motor vehicle upon the highway.

Express rule-making authority would also extend to the design of one or more types of skills tests assess an applicant or licensee's functional abilities. Such rules would take into consideration nationally recognized standards or accepted practices for assessment of driving ability, as well as information garnered from driver licensing medical review boards in other states and advocacy groups for persons with disabilities and senior citizens.

Medical Assessment & Rehabilitation Driving Permit

SB 94 also creates a new type of temporary driving permit that could be utilized by doctors and driver rehabilitation specialists to evaluate or train a person who is not licensed to drive or whose license has expired and wants to obtain or regain driving privileges through the use of adaptive equipment or other assistance.

Commercial Rulemaking Authority

In addition to strengthening and clarifying the Department's authority to examine driver license applicants or current licensees and adopt rules for assessment of noncommercial drivers, SB 94 also includes a revision of the Department's rule-making authority concerning the classification and examination of commercial drivers. Present law rule-making authority is overly broad and may not withstand judicial scrutiny.

Section 11 of SB 94 amends § 61-5-112 by articulating specific parameters that coincide with the guidelines under which current rules and practices have evolved, including conformance with federal requirements, establishment of medical qualification and age exceptions for intrastate operators, and definition and issuance of a seasonal commercial driver's license. The Department is not attempting to expand its authority via these revisions. Rather it merely seeks to modernize its rulemaking authority to include specific guidelines describing what the rules may and may not contain.

Administrative Amendments

Finally, SB 94 includes a variety of administrative amendments that simplify recordkeeping responsibilities and resolve some ongoing issues for the Motor Vehicle Division, law enforcement and the courts. These amendments include:

- lengthening the residence period for which non-commercial licensure is required from 90 to 120 days;
- specifying that for both commercial and non-commercial licensing, *continuous* residence in the State is required;
- eliminating the requirement that the Division return surrendered out-of-state licenses to the other state's licensing authority;
- allowing persons surrendering out-of-state licenses to retain the physical license for identification purposes after it has been distinctively marked by the Department;
- requiring use of full legal name for licensure, rather than assumed or preferred names;
- reinstating mail renewal authority for licensees who are unable to return to the State prior to license expiration;
- authorizing the Department to inactivate Montana driver's licenses surrendered to another state by the licensee;
- clarifying how second or subsequent DUIs or BACs are counted for purposes of license suspension or revocation;
- eliminating the requirement that the Montana Highway Patrol secure possession of a suspended or revoked license and authorize seizure of suspended or revoked licenses during the course of investigative stops or arrests;
- changing requirement that a licensee with an unsatisfied judgment arising from a motor vehicle accident file proof of financial responsibility to provide proof of compliance with mandatory vehicle liability insurance requirements following license suspension; and
- defining "moving violation" for purposes of habitual traffic offender laws.

Amendments to SB 94
1st Reading Copy (White)

For the Senate Highways and Transportation Committee

Prepared by Brenda Nordlund
Department of Justice
January 14, 1998

1. Page 13, line 16

Following: "record to"

Strike: the remainder of the line

Insert: "inactive." If the person returns to Montana prior to the expiration of the previously surrendered license, the department may reactivate the license for the remainder of the license term."

SB94amd.01

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **CHAIRMAN ARNIE MOHL**, on January 21, 1999 at
3:00 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. John Hertel (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Glenn Roush (D)
Sen. Debbie Shea (D)
Sen. Spook Stang (D)
Sen. Daryl Toews (R)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Phoebe Olson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 71, 1/21/1999; SB 89,
1/21/1999; SB 133, 1/21/1999
Executive Action: SB 71; SB 35; SB 78; SB 94

200 feet. People don't see those signs. He feels this bill will help save lives and it is only if the local communities want the signs.

SENATOR JABS asked if communities were going to request this if then the Highway Department would start to place signs every place. **SENATOR STANG** responded no, it includes allowing the Commission to establish a speed traffic study. The community would have to ask the department before they would put up the signs.

SENATOR HERTEL said this will establish enforcement for communities who have asked or requested the signs. He asked Senator Stang if he felt the bill will make this happen. **SENATOR STANG** replied he thinks it will make the communities more aware that the opportunity exists again.

SENATOR HOLDEN stated in Senator Stang support of his bill he actually defeats the purpose of it. Senator Stang talked about a 45mph and a 35mph sign and at a four-way stop sign that none of the people observed. He said now Senator Stang wants to stick out another sign telling the people the signs are coming up.

SENATOR MOHL commented he agreed with Senator Holden. If a speed limit is established, speeds will be reduced and drivers will be under control going into these areas. He expressed the fiscal note is wrong because with the speed there is going to be additional signs out there.

Vote: Motion carried 4-7 with Cole, DePratu, Hertel, Holden, Jergeson, Mohl and Toews voting no.

{Tape : 2; Side : A; Approx. Time Counter : 4:51}

EXECUTIVE ACTION ON SB 94

Motion: SEN. COLE moved that SB 94 DO PASS.

Motion: SEN. HERTEL moved that AMENDMENT DO PASS.

Discussion:

Connie Erickson submitted amendment, **EXHIBIT(9)**. **EXHIBIT(9)** not on
DISC

SENATOR MOHL asked if the amendment is saying a person can get their license back without taking the exam. **Connie Erickson** said no it says if a Montanan with a Montana driver's license moves to another state and gets a driver's license there then they surrender their Montana driver's license in the other state. Then the other state notifies Montana. The way the bill currently reads is that once the Department of Justice is notified by the other state that the person has surrendered their driver's license, then Montana would cancel the driver's license. The amendment says Montana will not cancel the driver's license. It will merely stamp the record as inactive. If the person should return to Montana at a later time, to reside, and wants to reactivate their Montana driver's license they may do so within the time period that the license will still be active if they had retained it.

SENATOR JABS asked if the person has to surrender their license in order to get on in other state or can someone have two licenses. **Connie Erickson** replied no they have to surrender the license.

SENATOR DEPRATU asked when a license is reactivate the license would there be a provision that would cause the person to surrender the out of state license. **Connie Erickson** said yes they could only hold one license.

Vote: Motion that **AMENDMENT DO PASS** carried unanimously.

Motion: **SEN. COLE** moved that **SB 94 DO PASS AS AMENDED**.

Discussion:

SENATOR HOLDEN asked if there was an interim legislative committee that met to design the changes of this piece of legislation. **Brenda Nordlund** responded no it is a Department bill. **SENATOR HOLDEN** asked why the department would want to go in and make all the changes. **Brenda Nordlund** said the impetus behind the changes deal with litigation that is driven by the Americans with Disabilities Act (ADA). Most of the changes dealing with physical or natural disability are intended to clarify the law as to when they can test someone, either the

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TRANSPORTATION

Call to Order: By **CHAIRMAN SHIELL ANDERSON**, on March 3, 1999 at 3:00 P.M., in Room 420 Capitol.

ROLL CALL

Members Present:

Rep. Shiell Anderson, Chairman (R)
Rep. Gary Beck, Vice Chairman (D)
Rep. Rick Jore, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Joe Barnett (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Matt Brainard (R)
Rep. Paul Clark (D)
Rep. Robert C. Clark (R)
Rep. Steven Gallus (D)
Rep. George Golie (D)
Rep. Marian Hanson (R)
Rep. Donald L. Hedges (R)
Rep. Carol C. Juneau (D)
Rep. Gary Matthews (D)
Rep. Frank Smith (D)
Rep. Roger Somerville (R)
Rep. Cliff Trexler (R)

Members Excused: None.

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 71; SB 89; SB 94; 2/23/99

Executive Action: None

Dean Roberts, Administrator, Motor Vehicle Division, Department of Justice.

{Tape : 1; Side : B; Approx. Time Counter : 3.3 - 4.7}

Opponents: None

Questions from Committee Members and Responses: Reps. Bookout-Reinicke, Golie, Barnett, Brainard, Juneau, Smith, Paul Clark, Jore, Hedges, to Senator Nelson and Dean Roberts.

{Tape : 1; Side : B; Approx. Time Counter : 4.7 - 18.9}

Closing by Sponsor: Senator Nelson closed the Hearing on SB 71.

{Tape : 1; Side : B; Approx. Time Counter : 18.9 - 19.8}

HEARING ON SB 94

Sponsor: Senator Linda Nelson, SD 49.

{Tape : 1; Side : B; Approx. Time Counter : 19.8 - 23.2}

Proponents: Brenda Nordlund, Department of Justice. EXHIBIT(2).

{Tape : 1; Side : B; Approx. Time Counter : 23.2 - 28}

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 7.7}

Opponents: None

Questions from Committee Members and Responses: Reps. Brainard, Trexler, Beck, Robert Clark, Somerville, Jore to Brenda Nordlund and Darrell Beckstrom, Records and Driver Control Bureau Chief, Motor Vehicle Department.

{Tape : 2; Side : A; Approx. Time Counter : 7.7 - 28.2}

Closing by Sponsor: Senator Nelson closed the Hearing on SB 94.

{Tape : 2; Side : A; Approx. Time Counter : 28.2 - 29.6}

Announcements and Adjournment.

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 0.6}

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TRANSPORTATION

Call to Order: By **CHAIRMAN SHIELL ANDERSON**, on March 22, 1999 at 3:05 P.M., in Room 420 Capitol.

ROLL CALL

Members Present:

Rep. Shiell Anderson, Chairman (R)
Rep. Gary Beck, Vice Chairman (D)
Rep. Rick Jore, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Joe Barnett (R)
Rep. Paul Clark (D)
Rep. Robert C. Clark (R)
Rep. Steven Gallus (D)
Rep. George Golie (D)
Rep. Donald L. Hedges (R)
Rep. Carol C. Juneau (D)
Rep. Gary Matthews (D)
Rep. Frank Smith (D)
Rep. Roger Somerville (R)
Rep. Cliff Trexler (R)

Members Excused: Rep. Sylvia Bookout-Reinicke (R)
Rep. Matt Brainard (R)
Rep. Marian Hanson (R)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: None
Executive Action: **SB 94; Be Concurred as Amended**
12-5

SB 137; Be Concurred as
Amended 12-5
SB 266; TABLED 10-7

EXECUTIVE ACTION ON SB 266

Motion: REP. JUNEAU moved that SB 266 BE CONCURRED IN.
{Tape : 1; Side : A; Approx. Time Counter : 0 - 1.4}

Motion/Vote: REP. JUNEAU moved that SB 266 BE AMENDED, Sovereign Nation License Plates Amendment. Motion failed 7-8 with Reps. Anderson, Jore, Adams, Barnett, Brainard, Robert Clark, Hanson and Hedges voting no.
{Tape : 1; Side : A; Approx. Time Counter : 1.4 - 2.9}

Substitute Motion/Vote: REP. JORE made a substitute motion that SB 266 BE TABLED. Motion carried 10-7 with Reps. Beck, Paul Clark, Gallus, Golie, Matthews, Smith and Somerville voting no.
{Tape : 1; Side : A; Approx. Time Counter : 2.9 - 7}

EXECUTIVE ACTION ON SB 137

Motion: REP. GOLIE moved that SB 137 BE CONCURRED IN.
{Tape : 1; Side : A; Approx. Time Counter : 7 - 8.6}

Motion/Vote: REP. ANDERSON moved that SB 137 BE AMENDED. Motion carried unanimously 17-0.
{Tape : 1; Side : A; Approx. Time Counter : 8.6 - 9.4}

Motion/Vote: REP. GALLUS moved that SB 137 BE CONCURRED IN AS AMENDED. Motion carried 12-5 with Reps. Jore, Brainard, Robert Clark, Smith and Trexler voting no.
{Tape : 1; Side : A; Approx. Time Counter : 9.4 - 12.5}

EXECUTIVE ACTION ON SB 94

Motion: REP. HEDGES moved that SB 94 BE CONCURRED IN.
{Tape : 1; Side : A; Approx. Time Counter : 12.5 - 13.7}

Motion: REP. ROBERT CLARK moved that SB 94 BE AMENDED.
{Tape : 1; Side : A; Approx. Time Counter : 13.7 - 14}

Discussion: Reps. Robert Clark, Trexler, Adams, Hedges, Paul Clark, Smith, Anderson to Leanne Kurtz and Brenda Nordlund, without objection.
{Tape : 1; Side : A; Approx. Time Counter : 14 - 30.1}
{Tape : 1; Side : B; Approx. Time Counter : 1.2 - 8.0}

DEPARTMENT OF JUSTICE
SB 94 - Revision of Driver Licensing Laws

EXHIBIT 2
DATE 3-3-99
SB 94

Background

In recent years, the Department has responded to several discrimination complaints filed with the Montana Human Rights Commission. In each instance, an individual with a disability complained that the individual was subjected to additional scrutiny in the license application process because of the disability.

- Two complaints involved applicants who surrendered a valid license from another state and objected to being required to perform a road or skills test prior to licensure in Montana.
- Another complaint involved an individual with a disability who objected to being retested prior to the lifting of previously imposed operational restrictions.
- A fourth complaint came from a student with a disability who objected to being tested by the Department as part of the regular oversight process of the Cooperative Driver Testing Program (CDTP) for participating traffic education programs.

The Department is also facing the prospect of a possible discrimination claim being filed with the U.S. Department of Justice under the Americans with Disabilities Act of 1990.

Common to each of these situations is the lack of clarity in present law regarding the Department's authority to require testing in various circumstances and to set evaluative standards based on the functional skills and abilities required for a person to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway.

The amendments sought in Senate Bill 94 are intended to correct this situation.

Evaluation of Driving Skills

The primary purpose of SB 94 is to ensure that the people to whom the Department of Justice issues a driver's license have the functional ability to safely operate a motor vehicle on the highway. In order to do that, Montana laws governing the licensing of drivers need to be updated in recognition of the complexities of the licensing assessment and evaluation process, and the increasing likelihood that individual dissatisfaction with the licensing process may result in litigation.

SB 94 would provide the Department:

- clear authority to deny licensure to a person who lacks the functional ability, due to a physical or mental disability or condition, to safely operate a motor vehicle on the highway.
- the ability to ask applicants whether they have a physical or mental disability that impairs or may impair their ability to exercise ordinary and reasonable control in safely operating a motor vehicle, and whether they rely upon, or intends to rely upon, adaptive equipment or operational restrictions to drive safely.
- the ability to adopt rules setting standards to govern driver's license examinations and reexaminations that specifically address the functional abilities and skills required for a person to exercise ordinary and reasonable control in safely operating a motor vehicle upon the highway.
- express authority to design of one or more types of skills tests to assess an applicant or licensee's functional abilities, taking into account nationally recognized standards or accepted practices for assessment of driving ability, as well as information garnered from driver licensing medical review boards in other states and advocacy groups for people with disabilities and senior citizens.

Medical Assessment & Rehabilitation Driving Permit

SB 94 also creates a new type of temporary driving permit that could be utilized by doctors and driver rehabilitation specialists to evaluate or train a person who is not licensed to drive or whose license has expired and wants to obtain or regain driving privileges through the use of adaptive equipment or other assistance.

Commercial Licensing Rulemaking Authority

In addition, SB 94 also revises the Department's rule-making authority concerning the classification and examination of commercial drivers. Present law rule-making authority is overly broad and may not withstand judicial scrutiny.

SB 94 articulates specific rulemaking parameters that coincide with the guidelines under which current rules and practices have evolved, including:

- conformance with federal requirements;
- separate medical qualification and age requirements for intrastate drivers, and
- distinct requirements for holders of a seasonal commercial driver's license.

SB 94 modernizes, rather than expands, the Department's rulemaking authority by specifying what the rules may and may not contain.

Miscellaneous Enforcement and Administrative Changes

Finally, SB 94 includes a variety of amendments that simplify recordkeeping responsibilities and resolve some ongoing issues for the Motor Vehicle Division, law enforcement and the courts. These amendments include:

- lengthening from 90 to 120 days the residence mandate for obtaining a Montana driver's license;
- specifying for both commercial and non-commercial licensing that *continuous* residence in the State is required;
- eliminating the requirement that the Department return surrendered out-of-state licenses to the other state's licensing authority;
- allowing persons surrendering out-of-state licenses to retain the physical license for identification purposes after it has been distinctively marked by the Department;
- requiring use of full legal name, rather than assumed or preferred names, for licensure;
- reinstating mail renewal option for licensees who are unable to return to the State prior to license expiration;
- clarifying how second or subsequent DUIs or BACs are counted for purposes of license suspension or revocation;
- eliminating the requirement that the Montana Highway Patrol secure possession of a suspended or revoked license and authorize seizure of suspended or revoked licenses during the course of investigative stops or arrests;
- requiring a person whose license has been suspended for failing to satisfy a judgment arising from a motor vehicle accident to provide proof of compliance with mandatory vehicle liability insurance, rather than filing proof of financial responsibility; and
- defining "moving violation" for purposes of habitual traffic offender laws.

Senate Amendment

The Senate amended SB 94 at the request of the Department. The amendment appears on page 13, lines 17-18. As originally drafted, a Montana driver's license would be canceled following notification from another state that the license had been surrendered to obtain a new out-of-state license. To reobtain a Montana license, a new application would have to be submitted, fees paid and any required tests passed.

By "inactivating" rather than cancelling a surrendered license, re-application can be avoided if the surrendered license has not yet expired.

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AN ACT GENERALLY REVISING THE LAWS GOVERNING THE LICENSING OF NONCOMMERCIAL AND COMMERCIAL DRIVERS; AUTHORIZING THE ISSUANCE OF A MEDICAL ASSESSMENT AND REHABILITATION DRIVING PERMIT; DEFINING "DRIVER REHABILITATION SPECIALIST"; CLARIFYING RESIDENCY REQUIREMENTS FOR LICENSURE AND EXTENDING FROM 90 DAYS TO 120 DAYS THE NONCOMMERCIAL RESIDENCE REQUIREMENT; MAKING INELIGIBLE FOR LICENSURE A PERSON WHO LACKS CERTAIN FUNCTIONAL ABILITIES; REQUIRING A DRIVER'S LICENSE APPLICANT TO DISCLOSE ANY PHYSICAL OR MENTAL CONDITION THAT MAY IMPAIR THE APPLICANT'S DRIVING ABILITIES; REQUIRING DISCLOSURE OF ANY ADAPTIVE EQUIPMENT OR OPERATIONAL RESTRICTIONS THAT ASSIST AN APPLICANT IN SAFELY OPERATING A MOTOR VEHICLE; DEFINING "JURISDICTION"; REQUIRING AN APPLICANT SURRENDERING A VALID LICENSE FROM ANOTHER JURISDICTION OR RENEWING A MONTANA DRIVER'S LICENSE TO SUBMIT TO KNOWLEDGE AND SKILLS TESTS IN CERTAIN SITUATIONS; ALLOWING A PERSON TO RETAIN A LICENSE FROM ANOTHER JURISDICTION FOR IDENTIFICATION PURPOSES; REQUIRING DRIVER'S LICENSES TO CONTAIN A PERSON'S FULL LEGAL NAME; CLARIFYING LAWS GOVERNING LICENSE RENEWAL BY MAIL; REQUIRING THE DEPARTMENT TO ADOPT RULES GOVERNING ISSUANCE OF COMMERCIAL DRIVER'S LICENSES, DRIVER'S LICENSE EXAMINATIONS AND REEXAMINATIONS, THE STANDARDS CONCERNING A DRIVER'S FUNCTIONAL ABILITIES AND SKILLS, VISUAL ACUITY REQUIREMENTS, AND OTHER LICENSING RESTRICTIONS; ALLOWING A PEACE OFFICER TO SEIZE A SUSPENDED LICENSE DURING AN INVESTIGATIVE STOP OR ARREST; REQUIRING A PERSON TO SUBMIT PROOF OF COMPLIANCE WITH 61-6-301 IN CERTAIN INSTANCES; CLARIFYING WHEN A PERSON IS CONSIDERED TO HAVE COMMITTED A SECOND, THIRD, OR SUBSEQUENT OFFENSE OF DRIVING WITH AN ALCOHOL CONCENTRATION OF 0.10 OR MORE; DEFINING "MOVING VIOLATION" FOR PURPOSES OF HABITUAL TRAFFIC OFFENDER PROVISIONS; ALLOWING THE DEPARTMENT OF JUSTICE TO USE CERTIFIED REPRODUCTIONS OF DRIVING RECORDS CONTAINED IN COMPUTER STORAGE DEVICES; AMENDING SECTIONS 61-5-102, 61-5-103, 61-5-105, 61-5-106, 61-5-107, 61-5-108, 61-5-110, 61-5-111, 61-5-112, 61-5-113, 61-5-125, 61-5-207, 61-5-208, 61-6-112, 61-6-122, 61-6-123, 61-6-125,

61-11-203, AND 61-11-204, MCA; REPEALING SECTION 61-6-141, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. (1) For the purposes of [section 2], "driver rehabilitation specialist" means a person who:

(a) possesses current certification from the association of driver educators for the disabled as a driver rehabilitation specialist; or

(b) (i) provides comprehensive services in the clinical evaluation of the abilities of a person with a disability to safely operate a motor vehicle, utilizing, among other things, wheelchair and seating assessment, vehicle modification prescription, and driver education;

(ii) (A) possesses a bachelor's degree in rehabilitation, education, or health and safety; in physical, occupational, or recreational therapy; or in a related profession; or

(B) has an equivalent of 8 years of experience in driver rehabilitation and education; and

(iii) has at least 1 year of experience in the area of driver evaluation and training for individuals with disabilities.

(2) For the purposes of this chapter, "jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico or a province or territory of Canada.

Section 2. Medical assessment and rehabilitation driving permit. (1) Upon the written request of a licensed physician on a form prescribed by the department, the department may authorize a driver rehabilitation specialist to issue a temporary medical assessment and rehabilitation driving permit to a person who is not licensed to drive or whose license has expired under the provisions of this chapter for the purpose of driver assessment, rehabilitation, and training.

(2) The temporary permit may be issued only to a person who is 16 years of age or older.

(3) The permit is valid for up to 6 weeks, beginning with the date of the first evaluation of the permitholder by the driver rehabilitation specialist. The driver rehabilitation specialist shall sign and date

the permit at the time of the first evaluation.

(4) The permit is valid only when the permitholder is operating a motor vehicle under the immediate supervision of the driver rehabilitation specialist during the permitholder's participation in an actual in-vehicle evaluation process.

(5) The department may extend the duration of a medical assessment and rehabilitation permit for an additional 6-week period if the driver rehabilitation specialist or the licensed physician certifies that the permitholder needs additional time to complete the driver assessment, rehabilitation, and training process.

Section 3. Section 61-5-102, MCA, is amended to read:

"61-5-102. Drivers to be licensed. (1) ~~No person, except those expressly exempted under 61-5-104, shall~~ Except as provided in 61-5-104, a person may not drive any a motor vehicle upon a highway in this state unless ~~such the~~ the person has a valid Montana driver's license. ~~No person shall~~ A person may not receive a Montana driver's license ~~unless and until he the person~~ surrenders to the department all valid driver's licenses ~~in his possession issued to him~~ by any other jurisdiction. ~~All surrendered licenses shall be returned by the department to the issuing department together with information that the licensee is now licensed in this state. No person shall be permitted to~~ A person may not have in the person's possession or under the person's control more than one valid Montana driver's license at any time.

(2) (a) A license is not valid for the operation of a motorcycle or quadricycle unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words "motorcycle endorsement". A motorcycle endorsement is required for the operation of a quadricycle.

(b) A license is not valid for the operation of a commercial vehicle unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words "commercial driver's license".

~~(2)(3) Whenever~~ When a city or town requires a licensed driver to obtain a local driving license or permit, ~~such~~ a license or permit ~~shall~~ may not be issued unless the applicant presents a state driver's license valid under the provisions of this chapter.

~~(3)(4)~~ A person operating a bicycle defined in 61-1-123(2) ~~shall have in his~~ must have in the person's possession at all times when operating the bicycle a valid Montana driver's license."

Section 4. Section 61-5-103, MCA, is amended to read:

"61-5-103. Residency requirement. (1) ~~Any~~ A person who has resided in Montana for more than ~~90~~ 120 consecutive days is considered to be a resident for the purpose of being licensed to operate a motor vehicle and must ~~thereafter~~ be licensed under the laws of Montana before operating a motor vehicle.

(2) A person who operates a commercial motor vehicle in Montana is considered to be a resident of Montana for the purpose of being licensed to operate a commercial motor vehicle if ~~he~~ the person has resided in Montana for more than 30 consecutive days and must ~~thereafter~~ be licensed under the laws of Montana before operating any commercial motor vehicle."

Section 5. Section 61-5-105, MCA, is amended to read:

"61-5-105. Who may not be licensed. The department may not issue a license under this chapter to a person:

(1) who is under 16 years of age unless:

(a) the person is at least 15 years of age and has passed a driver's education course approved by the department and the superintendent of public instruction; or

(b) the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license;

(2) whose license or driving privilege is currently suspended or revoked in this or any state;

(3) who is addicted to the use of alcohol or narcotic drugs;

(4) who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to competency by the methods provided by law;

(5) who is required by this chapter to take an examination;

(6) who has not deposited proof of financial responsibility when required under the provisions of chapter 6 of this title; or

(7) who has any condition characterized by lapse of consciousness or control, either temporary or prolonged, that is or may become chronic. However, the department may in its discretion issue a license to an otherwise qualified person suffering from a condition if the afflicted person's attending physician attests in writing that the person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a commercial motor vehicle under applicable state or federal regulations; or

(8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate a motor vehicle on the highway."

Section 6. Section 61-5-106, MCA, is amended to read:

"61-5-106. Instruction permits -- traffic education learner licenses and permits -- temporary licenses. (1) The department may issue an instruction permit to a person satisfying the age requirements specified in 61-5-105(1) after the applicant has successfully passed the knowledge test and the vision examination as provided in 61-5-110. An instruction permit entitles the permittee, while in immediate possession of the permit and accompanied by a licensed driver seated beside the permittee, to drive a motor vehicle upon the public highways for a period of 6 months from the date the fees required in 61-5-111 are paid.

(2) The department may issue a traffic education learner license to any person who is at least 14 1/2 years of age and who has successfully completed or is successfully participating in a traffic education course approved by the department and the superintendent of public instruction. A traffic education learner license entitles the licensee to operate a motor vehicle only when accompanied by an approved instructor or licensed parent or guardian and may be restricted to specific times or areas.

(3) (a) An instructor of a traffic education program approved by the department and by the superintendent of public instruction may issue a traffic education permit that is effective for a school year or more restricted period to an applicant who is enrolled in a traffic education program approved by the department and who meets the age requirements specified in 20-7-503.

(b) When in immediate possession of the traffic education permit, the permittee may operate on a designated highway or within a designated area:

- (i) a motor vehicle when an approved instructor is seated beside the permittee; or
- (ii) a motorcycle or quadricycle when under the immediate and proximate supervision of a approved instructor.

(4) The department may in its discretion issue a temporary driver's permit to an applicant for driver's license permitting the applicant to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary driver's permit must be in the permittee's immediate possession while operating a motor vehicle, and it is invalid when the applicant's license has been issued or for good cause has been refused.

(5) The department may in its discretion issue a temporary commercial driver's license to an applicant permitting the applicant to operate a commercial motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a commercial driver's license. The temporary license must be in the applicant's immediate possession while operating a commercial motor vehicle and is invalid when the applicant's license has been issued or for good cause has been refused.

(6) The department may in its discretion issue a temporary medical assessment and rehabilitation driving permit as provided in [section 2]."

Section 7. Section 61-5-107, MCA, is amended to read:

"61-5-107. (Bracketed language terminates on occurrence of contingency or July 1, 1995) Application for license, instruction permit, or motorcycle endorsement. (1) Each application for a instruction permit, driver's license, or motorcycle endorsement must be made upon a form furnished by the department. ~~A motorcycle endorsement is required for the operation of a quadricycle.~~ Each application must be accompanied by the proper fee, and payment of the fee entitles the applicant to not more than three attempts to pass the examination within a period of 6 months from the date of application. A voter registration form for mail registration as prescribed by the secretary of state must be attached to each driver's license application. If the applicant wishes to register to vote, the department shall accept the registration and forward the form to the election administrator.

(2) Each application must ~~state~~ include the full legal name, date of birth, sex, residence address of the applicant[, and if the application is for a commercial ~~vehicle operator's~~ driver's license, social

security number], must ~~briefly describe~~ include a brief description of the applicant, and must ~~state whether include a statement that allows the department to determine if:~~

(a) the applicant has previously been licensed as a driver or commercial vehicle operator, and, if so, when and by what state or country;

(b) any commercial ~~operator~~ driver's license has ever been suspended or revoked; ~~or~~

(c) an application has ever been ~~refused~~ denied, and, if so, the date of and reason for suspension, revocation, or ~~refusal~~ denial;

(d) the applicant has a physical or mental disability, limitation, or condition that impairs or may impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(e) the applicant relies upon, or intends to rely upon, any adaptive equipment or operational restrictions to attain the ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway, including the nature of the equipment or restrictions.

[(3) The department shall keep the applicant's social security number from this source confidential, except that the number may be used for purposes of subtitle VI of Title 49 of the U.S.C. or as otherwise permitted by state law administered by the department and may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(4) When application is received from an applicant previously licensed by another jurisdiction, the department shall request a copy of the applicant's driving record from the previous licensing jurisdiction. The driving record may be transmitted manually or by electronic medium. When received, the driving records become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance. (Bracketed language terminates on occurrence of contingency or July 1, 1999--sec. 104, Ch. 552, L. 1997.)"

Section 8. Section 61-5-108, MCA, is amended to read:

"61-5-108. Application of minors -- imputed liability. (1) The application of ~~any a~~ a person who is under ~~the age of 18 years~~ of age for an instruction permit, ~~or driver's license, or medical assessment and rehabilitation driving permit shall~~ must be signed and verified before a person authorized to administer

oaths or an employee of the department by a parent of the applicant or, if none is available, by some other responsible adult who is willing to assume the obligation imposed under this chapter upon a person signing the application of a minor.

(2) Any negligence or willful misconduct of a minor who is under the age of 18 years of age when driving a motor vehicle upon a highway ~~shall~~ must be imputed to a person who has signed the application of the minor for ~~a~~ an instruction permit, or driver's license, which person shall be or medical and rehabilitation driving permit. The person who signs the application is jointly and severally liable with the minor for any damages caused by the negligence or willful misconduct unless a motor vehicle liability policy, as provided for in chapter 6 of this title, covering the minor is in effect, in which case there is no imputed liability as described in this section."

Section 9. Section 61-5-110, MCA, is amended to read:

"61-5-110. (Temporary) Examination of applicants -- cooperative driver testing programs. (1) The department shall examine each applicant for a driver's license or motorcycle endorsement, except as otherwise provided in this section. The examination must include a test of the applicant's eyesight, a knowledge test examining the applicant's ability to read and understand highway signs and the applicant's knowledge of the traffic laws of this state, and, except as provided in 61-5-118, a road test or a skills test demonstrating the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle, quadricycle, or motorcycle. ~~The examination for the commercial driver's license may include additional items. The knowledge test and the road test or the skills test must be waived for an applicant who works in a farm-related service industry and who otherwise meets the requirements for a seasonal commercial driver's license as set forth in this title and rules adopted by the department. The knowledge test or road test, or both, may be waived by the department upon certification of the applicant's successful completion of the test by a certified cooperative driver testing program, as provided in subsection (2).~~

(2) The department is authorized to certify as a cooperative driver testing program any state-approved high school traffic education course offered by or in cooperation with a school district that employs an approved instructor who has current endorsement from the superintendent of public instruction as a teacher of traffic education and who agrees to:

(a) administer standardized knowledge and road tests required by the department to students participating in the district's high school traffic education courses;

(b) certify the test results to the department; and

(c) comply with regulations of the department and the superintendent of public instruction.

(3) (a) Except as otherwise provided by law, a resident who has a valid driver's license issued by another ~~state~~ jurisdiction may surrender that license for a Montana license of the same class, type, and endorsement upon payment of the required fees, and successful completion of a vision examination; ~~and, if requested by the examiner, completion of either the knowledge test or road test, or both.~~ In addition, a resident surrendering a commercial driver's license issued by another ~~state~~ jurisdiction shall successfully complete any examination required by federal regulations before being issued a commercial driver's license by the department.

(b) The department may require an applicant who surrenders a valid driver's license issued by another jurisdiction to submit to a knowledge and skills test if:

(i) the applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the surrendered license does not include readily discernible adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify a restriction imposed on the surrendered license.

(c) When a license from another jurisdiction is surrendered, the department shall notify the issuing agency from the other jurisdiction that the applicant has surrendered the license. If the applicant wants to retain the license from another jurisdiction for identification or other nondriving purposes, the department shall place a distinctive mark on the license, indicating that the license may be used for nondriving purposes only, and return the marked license to the applicant. (Terminates September 30, 1999--sec. 12, Ch. 53, L. 1995.)

61-5-110. (Effective October 1, 1999) Examination of applicants -- cooperative driver testing programs. (1) The department shall examine each applicant for a driver's license or motorcycle endorsement, except as otherwise provided in this section. The examination must include a test of the applicant's eyesight, a knowledge test examining the applicant's ability to read and understand highway

signs and the applicant's knowledge of the traffic laws of this state, and a road test or a skills test demonstrating the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle, quadricycle, or motorcycle. ~~The examination for the commercial driver's license may include additional items. The knowledge test and the road test or the skills test must be waived for an applicant who works in a farm-related service industry and who otherwise meets the requirements for a seasonal commercial driver's license as set forth in this title and rules adopted by the department.~~ The knowledge test or road test, or both, may be waived by the department upon certification of the applicant's successful completion of the test by a certified cooperative driver testing program, as provided in subsection (2).

(2) The department is authorized to certify as a cooperative driver testing program any state-approved high school traffic education course offered by or in cooperation with a school district that employs an approved instructor who has current endorsement from the superintendent of public instruction as a teacher of traffic education and who agrees to:

(a) administer standardized knowledge and road tests required by the department to students participating in the district's high school traffic education courses;

(b) certify the test results to the department; and

(c) comply with regulations of the department and the superintendent of public instruction.

(3) (a) Except as otherwise provided by law, a resident who has a valid driver's license issued by another state jurisdiction may surrender that license for a Montana license of the same class, type, and endorsement upon payment of the required fees, and successful completion of a vision examination; ~~and, if requested by the examiner, completion of either the knowledge test or road test, or both.~~ In addition, a resident surrendering a commercial driver's license issued by another state jurisdiction shall successfully complete any examination required by federal regulations before being issued a commercial driver's license by the department.

(b) The department may require an applicant who surrenders a valid driver's license issued by another jurisdiction to submit to a knowledge and skills test if:

(i) the applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the surrendered license does not include readily discernible adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify a restriction imposed on the surrendered license.

(c) When a license from another jurisdiction is surrendered, the department shall notify the issuing agency from the other jurisdiction that the applicant has surrendered the license. If the applicant wants to retain the license from another jurisdiction for identification or other nondriving purposes, the department shall place a distinctive mark on the license, indicating that the license may be used for nondriving purposes only, and return the marked license to the applicant."

Section 10. Section 61-5-111, MCA, is amended to read:

"61-5-111. Renewals Contents of a driver's license, renewal, renewal by mail, license expirations, grace period, and fees for licenses, permits, and endorsements -- notice of expiration. (1) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's licenses receipts and shall make necessary rules governing sales. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may, in its discretion, appoint an agent to sell receipts.

(2) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain a full-face photograph of the licensee in the size and form prescribed by the department; a distinguishing number issued to the licensee; the full legal name, date of birth, Montana mailing address, and a brief description of the licensee; and either the licensee's customary signature or a digital reproduction of the licensee's customary signature. A license is not valid until it is signed by the licensee.

~~(2) (a) (3) (a)~~ When a person applies for renewal of a driver's license, the department shall test the applicant's eyesight, ~~and, in the department's discretion, may have~~ The department may also require the applicant complete a road test demonstrating the applicant's ability to operate and to exercise ordinary and reasonable care in the operation of a motor vehicle to submit to a knowledge and skills test if:

(i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of

a motor vehicle on the highway; and

(ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

(d) (i) A person may renew a driver's license by mail if the person certifies that the person is temporarily out of state and will not be returning to the state prior to the expiration of the license.

(ii) An applicant who renews a driver's license by mail shall submit to the department an approved vision examination and a medical evaluation from a licensed physician in addition to the fees required for renewal.

(iii) If the department does not have a digitized photograph or signature record of the renewal applicant from the expiring license, then the department may require the renewal applicant to submit a personal photograph and signature that meets the requirements prescribed by the department.

(iv) The term of a license renewed by mail is 4 years, and a person may not renew by mail for consecutive license terms.

~~(d)~~(e) The department shall mail a driver's license renewal notice no earlier than 60 days and no later than 30 days prior to the expiration date of a commercial driver's license if the licensee has previously submitted a written request for the notice, either at the time of initial application or of renewal of the license.

~~(3) - (a)~~ (4) (a) Except as provided in subsections ~~(3)(b)~~ (4)(b) and ~~(3)(c)~~ (4)(c), a license expires on the anniversary of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first. The department may adopt rules to stagger the implementation of the conversion to an 8-year license cycle over a 4-year period.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

~~(4)~~(5) Whenever the department issues an original license to a person under the age of 18 years, the license must be designated and clearly marked as a "provisional license". Any license designated and marked as provisional may be suspended by the department for a period of not more than 12 months when its records disclose that the licensee, subsequent to the issuance of the license, has been guilty of careless or negligent driving.

~~(5) It is unlawful for any person to have in the person's possession or under the person's control more than one valid Montana driver's license at any one time. A license is not valid for the operation of a motorcycle or quadricycle unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words "motorcycle endorsement". A license is not valid for the operation of a commercial vehicle unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words "commercial driver's license".~~

(6) Fees for driver's licenses are:

- (a) driver's license, except a commercial driver's license -- \$4 per a year or fraction of a year;
- (b) motorcycle endorsement -- 50 cents per a year or fraction of a year;
- (c) commercial driver's license:
 - (i) interstate -- \$5 per a year or fraction of a year;
 - (ii) intrastate -- \$3.50 per a year or fraction of a year.

~~(7) The holder of a valid chauffeur's license may convert or renew the chauffeur's license to a commercial driver's license by paying the appropriate fee and complying with the requirements established by the department.~~

(7) Upon receipt of notice from another jurisdiction that a person licensed under this chapter has surrendered a Montana driver's license to that jurisdiction, the department shall change the license status on the person's official driver record to "inactive". If the person returns to Montana prior to the expiration of the previously surrendered license, the department may reactivate the license for the remainder of the license term."

Section 11. Section 61-5-112, MCA, is amended to read:

"61-5-112. ~~Classification of Types and classes of commercial driver's license licenses --~~ classification -- rulemaking. The department ~~upon issuing a commercial driver's license shall indicate on the license the class of license issued and shall appropriately examine each applicant according to the class applied for and may impose rules for classification, examination, and use~~ shall adopt rules that it considers necessary for the safety and welfare of the traveling public governing the classification of commercial driver's licenses and related endorsements and the examination of commercial driver's license applicants and renewal applicants. The rules must:

(1) subject to the exceptions provided in this section, comport with the requirements of 49 CFR, part 383, and the medical qualifications of 49 CFR, part 391;

(2) allow for the issuance of a type 2 (intrastate only) commercial driver's license in accordance with medical qualification and visual acuity standards prescribed by the department;

(3) allow for the issuance of a type 2 commercial driver's license to a person who is 18 years of age or older or an operationally restricted type 2 commercial driver's license to a person who is 16 years of age or older;

(4) allow for issuance of a seasonal commercial driver's license based on standards established by the department for the waiver of the knowledge and skills test for a qualified person employed in farm-related service industries who has a good driving record and sufficient prior driving experience;

(5) prescribe the operational and seasonal restrictions for a seasonal commercial driver's license;
and

(6) prescribe the requirements for the medical statement that must be submitted in order for a person to be qualified for a type 2 commercial driver's license."

Section 12. Section 61-5-113, MCA, is amended to read:

"61-5-113. Restricted licenses. (1) ~~The department upon issuing a driver's license shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the department may~~

~~determine to be appropriate to assure the safe operation of a motor vehicle by the licensee~~ If, upon an applicant's completion of the vision, knowledge, and skills tests required under 61-5-110, 61-5-111, and 61-5-207, the department determines that an applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway depends on the use of adaptive equipment or operational restrictions, then the department shall include the appropriate restrictions on a license issued to the applicant. Once imposed, the restrictions may not be removed unless the department determines that the adaptive equipment or operational restrictions are no longer essential to the licensee's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway.

(2) The department may either issue a special restricted license or may ~~set forth such~~ include the restrictions upon on the usual license form.

(3) The department may upon receiving satisfactory evidence of ~~any a~~ a violation of the restrictions of ~~such a~~ a license or endorsement suspend or revoke the ~~same but the~~ license. The licensee ~~shall be~~ is entitled to a hearing as upon suspension or revocation under this chapter.

(4) It is a misdemeanor for ~~any a~~ a person to operate a motor vehicle in ~~any a~~ a manner in violation of the restrictions imposed in a restricted license ~~issued to him.~~

Section 13. Section 61-5-125, MCA, is amended to read:

"61-5-125. Authority of department -- rulemaking authority. (1) The department shall administer and enforce the provisions of this chapter ~~and may adopt rules to implement this chapter.~~

(2) The department shall adopt rules setting standards to govern driver's license examinations and reexaminations. The rules:

(a) must specifically address the functional abilities and skills required for a person to exercise ordinary and reasonable control in the safe operation of a motor vehicle on a highway;

(b) must include minimum uncorrected or corrected visual acuity requirements for both unrestricted and restricted licensure and may include minimum field of vision and depth perception requirements and hearing requirements for unrestricted and restricted licensure;

(c) may direct the design of one or more types of skills tests to assess an applicant's or licensee's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway.

A skills test may consist of:

(i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

(ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the department, as related to a specific physical or mental condition or conditions or a request for reexamination;

(d) must include operational restrictions based upon the visual acuity of an applicant or licensee;

(e) may take into consideration any nationally recognized standards or recommended practices for assessment of a person's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway;

(f) must include appropriate licensing criteria relating to the use of adaptive equipment or operational limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction;

(g) may be derived from medical guidelines and information compiled by driver licensing medical advisory or review boards from other jurisdictions, as well as information received from advocacy groups for persons with disabilities and senior citizens; and

(h) except as provided in 61-5-105, may not use a person's age or physical or mental disability, limitation, or condition as a justification for denial of a license.

(3) The department may adopt additional rules governing:

(a) acceptable methods of proof of identification that must be supplied by a person upon application for or renewal of a driver's license;

(b) issuance of a hardship license to an underage applicant;

(c) the cancellation of a driver's license upon receipt of an insufficient funds check in payment of license fees;

(d) circumstances under which the department may issue a probationary license to a person whose license has been suspended or revoked or a person whose license is subject to a discretionary suspension or revocation;

(e) restrictions to be imposed upon a probationary license;

(f) renewal of a driver's license by a person in the military assigned to active duty who had a valid

Montana driver's license at the time of entering active duty; and

(g) issuance of a duplicate driver's license."

Section 14. Section 61-5-207, MCA, is amended to read:

"61-5-207. Reexamination or investigation medical evaluation -- when required. ~~The (1) If the~~ department, ~~having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, may, based on information received, investigate the licensee's record, physical or mental condition, or need for a license or,~~ receives reliable evidence that a licensed driver lacks the ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway, the department may, upon written notice of at least 5 days to the licensee, require the licensee to ~~submit to an examination~~ obtain a medical evaluation from a licensed physician or submit to one or more tests customarily conducted by the department for licensure under 61-5-110.

(2) Upon the review of a medical evaluation, the conclusion of ~~the investigation or examination testing, or both,~~ the department ~~shall take action as may be appropriate considering the facts reported or discovered and may suspend or revoke the driver's license of the person or permit the person to retain the license or may issue a license subject to restrictions as permitted under 61-5-113~~ may:

(a) impose restrictions on the license, as provided in 61-5-113, that are appropriate to the licensee's acknowledged or demonstrated functional abilities;

(b) suspend the license indefinitely based upon a licensee's inability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; or

(c) take no action modifying the license or placing restrictions on the licensee.

(3) The age of a licensee, by itself, does not constitute evidence of a condition requiring a reexamination or a medical evaluation by a licensed physician.

(4) A suspension under this section continues in effect until evidence satisfactory to the department establishes that the licensee has regained the ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on a highway.

(5) Refusal or neglect of the licensee to obtain a medical evaluation from a licensed physician or submit to the investigation or examination testing as required by the department is grounds for suspension or revocation of the person's license."

Section 15. Section 61-5-208, MCA, is amended to read:

"61-5-208. Period of suspension or revocation. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than 1 year, except as otherwise permitted by law.

(2) (a) A person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored unless the revocation was for a cause ~~which~~ that has been removed. After the expiration of the period of the revocation or suspension, the person may make application for a new license or endorsement as provided by law, but the department may not issue a new license or endorsement ~~unless and~~ until it is satisfied, after investigation of the driving ability of the person and upon a showing by its records or other sufficient evidence, that the person is eligible to be licensed to drive in Montana.

(b) When ~~any~~ a person is convicted or forfeits bail or collateral not vacated for the offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for the offense of operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated, suspend the driver's license or driving privilege of the person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall revoke the license or driving privilege of the person for a period of 1 year, except that if the 1-year period passes and the person has not completed an alcohol information course, treatment, or both, as ordered by the sentencing court, the license revocation remains in effect until the course, treatment, or both are completed.

(c) For the purposes of subsection (2)(b), a person is considered to have committed a second, third, or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction.

(3) (a) If a person pays the reinstatement fee required in 61-2-107 and provides the department proof of compliance with any ignition interlock restriction imposed under 61-8-442, the department shall stay the license suspension or revocation of a person who has been convicted of a violation of 61-8-401

or 61-8-406 and return the person's driver's license. The stay must remain in effect until the period of suspension or revocation has expired and any required alcohol information course, treatment, or both, have been completed.

(b) If the department receives notice from a court, peace officer, or ignition interlock vendor that the person has violated the ignition interlock restriction by, including but not limited to, operating a motor vehicle not equipped with the device, tampering with the device, or removing the device before the period of restriction has expired, the department shall lift the stay and reinstate the license suspension or revocation for the remainder of the time period. The department may not issue a probationary driver's license to a person whose license suspension or revocation has been reinstated due to violation of an ignition interlock restriction.

(4) The period for all revocations made mandatory by 61-5-205 is 1 year except as provided in subsection (2).

(5) The period of revocation for any person convicted of any offense which makes mandatory the revocation of the driver's license commences from date of conviction or forfeiture of bail.

(6) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-811 and subsection (2) of this section."

Section 16. Section 61-6-112, MCA, is amended to read:

"61-6-112. Surrender of license. ~~Any~~ A person whose license ~~shall have~~ has been suspended as herein provided, or whose policy of insurance or bond, when required under this part, ~~shall have~~ has been canceled or terminated, or who ~~shall neglect~~ neglects to furnish other proof upon request of the department shall immediately return ~~his~~ the person's license to the department. If ~~any person shall fail~~ a licensee fails to return to the department the license as ~~provided herein, the department shall forthwith~~ direct any required by this section, then a peace officer or highway patrol officer to secure possession thereof may seize the license during an investigative stop or arrest and to return the same license to the department."

Section 17. Section 61-6-122, MCA, is amended to read:

"61-6-122. Suspension for nonpayment of judgments -- exceptions. (1) The department, upon the receipt of a certified copy of a judgment, shall ~~forthwith~~ suspend the license and any nonresident's operating privilege of any person against whom ~~such a~~ judgment was rendered, except as ~~hereinafter~~ otherwise provided in this section and in 61-6-125.

(2) If the judgment creditor consents in writing, in ~~such a~~ form ~~as that~~ the department ~~may~~ prescribe prescribes, that the judgment debtor be allowed a license or a nonresident's operating privilege, ~~the same may be allowed by the department may~~, in its discretion, allow the debtor a license or nonresident's operating privilege for 6 months from the date of ~~such~~ consent, ~~and thereafter~~ The debtor's license or nonresident's operating privilege continues until such the judgment creditor's consent is revoked in writing notwithstanding default in the payment of ~~such the~~ judgment, or of any installments ~~thereof~~ prescribed in 61-6-125, provided the judgment debtor furnishes proof of ~~financial responsibility compliance~~ with 61-6-301."

Section 18. Section 61-6-123, MCA, is amended to read:

"61-6-123. Suspension to continue until judgments paid and proof given -- maximum period of suspension. ~~Such A~~ license ~~and or~~ nonresident's operating privilege ~~shall remain so~~ remains suspended and ~~shall may~~ not be renewed, nor ~~shall any such may a~~ license be ~~thereafter~~ issued in the name of ~~such person a judgement debtor~~, including ~~any such person a judgment debtor~~ not previously licensed, ~~unless~~ and until ~~every such each~~ judgment is stayed, satisfied in full, or satisfied to the extent ~~hereinafter~~ provided in this part, and until the person gives proof of ~~financial responsibility compliance with 61-6-301~~ subject to the exemptions ~~stated~~ provided in 61-6-122 and 61-6-125 or 6 years have passed from date judgment was first entered as provided in 25-9-301 and the person has complied with 61-6-301 and 61-6-302."

Section 19. Section 61-6-125, MCA, is amended to read:

"61-6-125. Installment payment of judgments -- default. (1) A judgment debtor upon due notice to the judgment creditor may apply to the court in which ~~such the~~ judgment was rendered for the privilege of paying ~~such the~~ judgment in installments, ~~and the~~ The court, in its discretion and without prejudice to any other legal remedies ~~which that~~ the judgment creditor may have, may ~~so~~ order payment in

installments and fix the amounts and times of ~~payment of the installments~~ the payments.

(2) The department ~~shall~~ may not suspend a license or a nonresident's operating privilege and shall restore any license or nonresident's operating privilege suspended following nonpayment of a judgment, when the judgment debtor gives proof of ~~financial responsibility~~ compliance with 61-6-301 and obtains ~~such~~ an order permitting the payment of ~~such~~ the judgment in installments, and while the payment of any ~~said~~ installment is not in default.

(3) ~~In the event~~ If the judgment debtor fails to pay any installment as specified by ~~such~~ a court order, then ~~upon notice of such default~~, the department shall, upon notice of the default, forthwith suspend the license or nonresident's operating privilege of the judgment debtor until ~~such~~ the judgment is satisfied, as provided in this part."

Section 20. Section 61-11-203, MCA, is amended to read:

"61-11-203. **Definitions.** As used in this part, the following definitions apply:

(1) "Conviction" means a finding of guilt by duly constituted judicial authority, a plea of guilty, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any offense relating to the use or operation of a motor vehicle which is prohibited by law, ordinance, or administrative order.

(2) "Habitual traffic offender" means any person who within a 3-year period accumulates 30 or more conviction points according to the schedule specified in this subsection:

(a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;

(b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 12 points;

(c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the commission of which a motor vehicle is used, 12 points;

(d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, 10 points;

(e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points;

(f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance, as

defined in 61-7-105, 8 points;

(g) willful failure of the driver involved in an accident resulting in property damage of \$250 to stop at the scene of the accident and give the required information or failure to otherwise report an accident in violation of the law, 4 points;

(h) reckless driving, 5 points;

(i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;

(j) any of the mandatory motor vehicle liability protection offenses under 61-6-301 and 61-6-302, 5 points;

(k) operating a motor vehicle without a license to do so, 2 points (this subsection (k) does not apply to operating a motor vehicle within a period of 180 days from the date the license expired);

(l) speeding, 3 points;

(m) all other moving violations, 2 points.

(3) There may not be multiple application of cumulative points when two or more charges are filed involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number of points for the specific conviction carrying the highest points is chargeable against that defendant.

(4) "License" means any type of license or permit to operate a motor vehicle.

(5) "Moving violation" means a violation of a traffic regulation of this state or another jurisdiction by a person while operating a motor vehicle or in actual physical control of a motor vehicle upon a highway, as the term is defined in 61-1-201.

(6) A traffic regulation includes any provision governing motor vehicle operation, equipment, safety, size, weight, and load restrictions or driver licensing. A traffic regulation does not include provisions governing vehicle registration or local parking."

Section 21. Section 61-11-204, MCA, is amended to read:

"61-11-204. Department's duties. (1) If the records maintained by the department show that a person's driving record brings the person within the definition of a habitual traffic offender, the department shall:

(a) declare the person a habitual traffic offender;

(b) revoke the person's driver's license or driving privileges as provided in 61-11-211; and

(c) notify the person in writing of the declaration and revocation.

(2) The notice must be sent by first-class mail to the most current address on record with the department. The notice must include a certified ~~copy~~ reproduction of the person's driving record ~~and copies of all relevant abstracts of convictions and bond forfeitures as contained in the computer storage device used by the department for recordkeeping~~. The notice must inform the person of the right under 61-11-210 to appeal the declaration and revocation. Service of the notice is complete upon mailing."

Section 22. Repealer. Section 61-6-141, MCA, is repealed.

Section 23. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 61, chapter 5, and the provisions of Title 61, chapter 5, apply to [sections 1 and 2].

Section 24. Effective dates. (1) [Sections 11 and 13] are effective on passage and approval.

(2) [Sections 1 through 10, 12, and 14 through 22] are effective October 1, 1999.

Section 25. Applicability. [This act] applies to license applications, renewals, and reexaminations submitted after September 30, 1999.

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